

1 SUPREME COURT OF THE STATE OF NEW YORK  
2 COUNTY OF NASSAU : PART 47

3 -----X  
4 THE PEOPLE OF THE STATE OF NEW YORK

5 -against- Ind. No. 1050N/15  
6 JURY TRIAL

7 RAY ROSS,

8 DEFENDANT.  
9 -----X

10 Mineola, New York  
11 February 9, 2016

12 B E F O R E: HON. TERENCE P. MURPHY  
13 Acting Supreme Court Justice

14 A P P E A R A N C E S:

15 (Same as previously noted)

16 Kathi A. Fedden  
17 Official Court Reporter

18 \* \* \*

19 THE CLERK: Continued case on trial, People  
20 versus Ray Ross.

21 People ready at this time?

22 MR. PERRI: Yes, your Honor.

23 Kathi A. Fedden, Sr. Court Reporter

1 THE CLERK: Defense ready?

2 MR. ZERNER: Defense is ready, thank you.

3 THE CLERK: All parties are present. The jury  
4 is not in the courtroom at this time.

5 THE COURT: There is one matter I think we  
6 have to tend to before the jury comes in. That's with  
7 regard to Ms. Sarita Johnson's prior criminal history as  
8 it applies to a Brady or Giglio responsibility of the  
9 assistant district attorney.

10 The Court has received and I believe defense  
11 counsel has already received a memorandum or Email  
12 bullet point response from the assistant district  
13 attorney to include a couple of cases in support.

14 Now, Mr. Perri, I want to hear from you with  
15 regard to any criminal matters that you researched with  
16 regard to the information provided to you by your  
17 adversary counsel.

18 MR. PERRI: Your Honor, with respect to the  
19 information, which was only a year, and alleging a  
20 non-descript incident in two different years, the People  
21 once again went through and ran Sarita Johnson's NYSID.  
22 It once again comes up with no information regarding any  
23 criminal convictions.

24 We entered Sarita Johnson's NYSID number, her  
25 name, verified her date of birth into the Unified Court

1 System CRIMS database to look for any cases that  
2 resulted in a criminal or even an unsealed disposition.  
3 The only information that was located there was the  
4 information that I turned over to the Court yesterday  
5 about the 1995 petit larceny and shoplifting incident in  
6 Garden City. It did not result in a criminal  
7 conviction.

8 The information about disposition in the  
9 Court's system was in direct conflict with what the jail  
10 had about that case. Her criminal record shows no  
11 record of that arrest or any plea taken in that case and  
12 in confronting and discussing that incident with Sarita  
13 Johnson, she acknowledged it, she explained that it was  
14 also a shoplifting incident which would correspond to  
15 the larceny charge that was in the CRIMS database in the  
16 Court system and she believes, much as with the second  
17 incident, that it resulted in an adjournment in  
18 contemplation of dismissal, no criminal convictions.  
19 And as the ACOD periods on both of those cases would  
20 have -- the six month ACOD would have more than run by  
21 today's date, it's the People's position that those  
22 incidents were expunged from her criminal record. The  
23 arrests are no longer present on her criminal record and  
24 there was no criminal disposition. Sarita Johnson has  
25 no criminal history the People are aware of in New York

1 State or Nassau County in searching by both the district  
2 attorney's database, the Nassau County Police  
3 Department's Swift Justice database, the New York State  
4 Unified Court System's criminal database and running her  
5 New York State criminal record.

6 The People are not able to find any criminal  
7 convictions at all for Ms. Johnson.

8 THE COURT: Mr. Zerner.

9 MR. ZERNER: Thank you. I believe we have  
10 several problems here. I think problem number one is,  
11 for whatever reason, the prosecutor is continuing to  
12 each time this investigation goes on, he's only looking  
13 at it in a light most favorable to the People. We will  
14 get to the point in the trial when that's appropriate.

15 THE COURT: I'm going to challenge you on that  
16 particular assertion, Mr. Zerner. What I have heard  
17 from the assistant district attorney is that he's done a  
18 comprehensive search for criminal convictions with  
19 regard to a potential witness in this particular case  
20 and the records that were accessed reveals no criminal  
21 convictions.

22 Now, you have provided some general  
23 information to the assistant district attorney and you  
24 told the Court that you have a good faith belief that  
25 there are some criminal convictions. He went back and



1 researched it and they're not there within the confines  
2 of official records, which is his obligation, and only  
3 limited to that parameter.

4 Now, if you have particular information, you  
5 must give it to the assistant district attorney or I'm  
6 not going to hear it. Because we're playing a cat and  
7 mouse game from what I see and it's not the burden of  
8 the assistant district attorney to kind of go out into  
9 the netherworld and find out if there is something there  
10 when he has nothing to go on except some general  
11 assertions from you.

12 MR. ZERNER: I accept what the Court is  
13 telling me right now, your Honor. However, if I may  
14 continue, what the DA has told us is that there was a  
15 charge in 2014. What we do know is that the allegation  
16 that my client is defending himself against happened in  
17 2014. I think I'm entitled to --

18 THE COURT: What's the charge?

19 MR. ZERNER: The petit larceny from 2014. So  
20 there is two problems, Judge. Problem number one is it  
21 sounds like whoever the assistant district attorney was,  
22 but certainly a Nassau assistant district attorney  
23 dealing with that case, presumably at 99 Main Street,  
24 didn't have a NYSIS at the time that showed the 1995  
25 conviction.

1                   Forgetting that for a second, in 2014,  
2                   whatever the petit larceny was, and I believe everybody  
3                   in this room understands it can be a kit kat from a  
4                   7-Eleven or a \$999 item from Saks Fifth Avenue,  
5                   regardless, at some point in 2014, perhaps before she  
6                   brought an allegation that her daughter had this  
7                   interaction with my client, perhaps she's using that as  
8                   a wedge to try to help herself. We don't know. And the  
9                   reason I don't know is because the DA won't provide the  
10                  date and the information about that petit larceny.

11                  Your Honor will recall that yesterday in the  
12                  morning the DA told us about a 2014 incident. Then  
13                  after lunch he told us about 2014 and 1995. I don't  
14                  understand why this simply can't be turned over and  
15                  shown to the person who is entitled to it, myself,  
16                  defending my client.

17                  Now, again, the DA --

18                  THE COURT: What is it you want turned over,  
19                  sir? There is no documentation with regard to that.

20                  MR. ZERNER: There is a file somewhere in the  
21                  DA's office that shows a 2014 docket number began  
22                  against Sarita Johnson. I want to know the day it  
23                  began. I want to know when the offer was made. I want  
24                  to know whether the allegation that was brought against  
25                  my client was before, during or after the pendency of

1           that case. It was certainly during the pendency of the  
2           six month ACOD period.

3                       This is a woman who now we know has an  
4           interaction back and forth with CPS. She's had problems  
5           with the fathers of her children along the way,  
6           including during that time frame. Let's shine the light  
7           of day on it. Let's find out exactly what was going on  
8           with it.

9                       The DA searched, he states, the Nassau County  
10          Police Department system. I accept that representation.  
11          He just made it on the record again. I told him there  
12          was something that happened in Queens. Now he's saying  
13          I didn't go specifically to Queens, I went statewide and  
14          I didn't find anything. That would be fine except  
15          yesterday he said the same thing and when he looked  
16          further, he did find something.

17                      The Chinese water torture is problematic,  
18          especially when presumably this woman is testify today  
19          or tomorrow.

20                      THE COURT: How does that impact the witness's  
21          credibility and/or the exculpatory or go to exculpating  
22          your client?

23                      MR. ZERNER: If the DA knew that their  
24          complainant in this case was a defendant in another  
25          case, perhaps a Chinese wall should have been erected.

1 Perhaps a special prosecutor should have been brought  
2 in. Presumably that didn't happen.

3 Again, the items that were stolen this time, I  
4 believe, were silverware. It could be \$10 or \$999. I  
5 think I'm entitled to know what did she steal? What was  
6 the date that it happened? Where was the location? Did  
7 she have interaction with store security, with the  
8 police, with both? I think I'm entitled to see that  
9 paperwork.

10 THE COURT: Mr. Perri.

11 MR. PERRI: Your Honor, what defense counsel  
12 is asserting is found nowhere in case law or in the  
13 Criminal Procedure Law. The People have turned over as  
14 much information under the CPL and also under case law  
15 as required regarding bad acts, as well as criminal  
16 convictions. There is no criminal conviction regarding  
17 either of these incidents. The files are sealed. The  
18 information is not accessible to the People. The cases  
19 were dismissed.

20 Defense counsel is allowed to cross-examine  
21 the witness on the bad act of theft. He can  
22 cross-examine her on what she stole. He can  
23 cross-examine the witness on when she stole and why she  
24 stole it. The bad act has been put forth because it  
25 goes to her credibility and the People concede it's

1 proper grounds for cross-examination. But the case law  
2 is clear, just an arrest is not grounds for  
3 cross-examination. And interaction with the police is  
4 not grounds for cross-examination. And just the fact  
5 that CPS is involved in this woman's life is not grounds  
6 for cross-examination.

7 Your Honor, the People have handed up with  
8 respect to the information that we turned over that  
9 defense counsel referenced, that the People discovered  
10 when trying to find more information about either the  
11 2014 or 2010 incident that defense counsel alleged  
12 regarding mostly CPS involvement in the family that did  
13 not result in any criminal charges.

14 THE COURT: I'm not going to go to CPS. The  
15 Court has reviewed the CPS records and has issued a  
16 ruling that they're confidential records and they were  
17 not to be turned over.

18 MR. PERRI: Your Honor, the People just ask  
19 for an instruction, as defense counsel has already  
20 alluded to when he says he wants to shine the light of  
21 day, with regard to the information that I provided to  
22 the Court and defense counsel last night by exposing all  
23 this and using it to cross-examine against the witness.  
24 The People ask him to be precluded from that. These are  
25 not bad acts that go to her credibility.

1 THE COURT: That's a whole different issue.  
2 When reading it this morning I was quite surprised it  
3 was even offered.

4 So, first things first. I want to thank you  
5 for making my evidentiary ruling with regard to what  
6 defense counsel can cross-examine the witness on, but  
7 your ruling does not impact the Court's potential  
8 decision with regard to the limits of examination by  
9 defense counsel.

10 MR. PERRI: Your Honor, I understand. I  
11 didn't mean any disrespect.

12 THE COURT: And I didn't take it as  
13 disrespect.

14 One, as the assistant district attorney has  
15 alluded to, based on the records that have been  
16 accessed, there is no criminal conviction, so there is  
17 no obligation on the assistant district attorney to  
18 provide anything else to defense counsel.

19 With regard to the two incidents that have  
20 been addressed, the Court doesn't know what happened.  
21 There was some interaction with the criminal justice  
22 system, but as far as the Court understands, those  
23 interactions resulted in a disposition favorable to the  
24 defendant witness, Ms. Johnson. Therefore, unless the  
25 door is somehow opened to inquire of Ms. Johnson with

1 regard to those prior incidents, the Court sees no  
2 reason why they should be addressed under a  
3 cross-examination posture and we'll wait and see how the  
4 testimony of Ms. Johnson comes out.

5 Secondly, with regard to the CPS records, the  
6 Court has already, as I have indicated, made a ruling  
7 that those CPS records offered no exculpatory material  
8 for the defendant, nor went to any issues of credibility  
9 of the witnesses, so again, in that vain, unless the  
10 door is somehow opened by the assistant district  
11 attorney, that area of inquiry will be out of bounds for  
12 defense counsel.

13 I hope that results in an understanding of the  
14 Court's posture on those two positions.

15 Mr. Zerner, your exceptions are noted for the  
16 record. I preserve your client's appellate rights,  
17 should they be necessary.

18 MR. ZERNER: Thank you, your Honor.

19 MR. PERRI: Your Honor, I just ask for an  
20 opportunity, before calling Sarita Johnson, to advise  
21 her of the Court's ruling as I prepared her to have to  
22 address these issues in case the Court did not rule as  
23 you just did. Just five minutes, your Honor, before she  
24 is called.

25 THE COURT: After?

1 MR. PERRI: After openings.

2 THE COURT: We usually take a break because  
3 there is an instruction given to the jury and then there  
4 is openings, so that gives the court reporter tired  
5 fingers and it gives the jurors a tired posture having  
6 sat in their seats for an hour and a half or so, so  
7 we'll take a break and what you do on that break is your  
8 prerogative.

9 MR. PERRI: Thank you, your Honor.

10 (Whereupon, the jury entered the courtroom.)

11 THE CLERK: Let the record reflect the  
12 presence of the jury. Shall I take a roll call, Judge?

13 THE COURT: Please.

14 (Whereupon, a roll call of the jury was  
15 taken.)

16 THE CLERK: Jurors all present and accounted  
17 for.

18 THE COURT: Good morning, ladies and  
19 gentlemen. I'm glad to see everyone made it today. For  
20 those of you who didn't have to come to Court yesterday,  
21 see how lucky you were, because it was a tough commute,  
22 but we're all here together now to begin the trial.

23 I have further instructions for you. Some of  
24 the points that I make will be repetitive from my  
25 preliminary instructions, but those points deal with the



1 principles of law and human understanding gets better by  
2 repetition. And I know some of those principles may  
3 have been foreign to you the first time you heard them,  
4 but I hope you have an understanding of them now and  
5 will continue to build on that understanding so you will  
6 be fully cognizant of your responsibilities with regard  
7 to how to follow the law and apply the law to the facts  
8 that you will determine here at trial.

9 We're about to proceed with the trial of the  
10 case of the People versus Ray Ross. At the outset, I'm  
11 going to explain the various stages of a trial and what  
12 you may expect to see and hear during the trial so that  
13 you may better understand what is taking place. I will  
14 also remind you of some of the basic principles of law  
15 which apply to this and all criminal trials.

16 At the conclusion of the case, I will again  
17 remind you of those principles, I will define the crimes  
18 charged, explain the law that applies to the charged  
19 crimes and will list for you the elements that the  
20 People must prove beyond a reasonable doubt.

21 The elements of a charged crime is a term that  
22 refers to the various parts of our law's written  
23 definition of the crime, in addition to the  
24 identification of a person as the one who committed the  
25 crime.

1           As you know, there are multiple crimes charged  
2           in the indictment and you know that is simply an  
3           accusation with no evidentiary weight. A separate crime  
4           is charged against the defendant in each count. You  
5           must decide each count separately. Your verdict on one  
6           count should not control your verdict on any other  
7           count. Evaluate the evidence presented as to each crime  
8           and to each element of each crime, okay.

9           As you can see, a court reporter is taking  
10          down everything that is being said. What she takes down  
11          is called the record of the trial. You may not take  
12          notes during the trial. There are reasons for this  
13          rule. There is no real need for notes since every word  
14          of each witness is recorded by the court reporter and  
15          during deliberations, upon your request, the testimony  
16          can be read back to you.

17          It is often difficult to take notes and at the  
18          same time to look at the witness and fully comprehend  
19          and appreciate what the witness is saying and how the  
20          witness is saying it. Since you are the finders of  
21          fact, you are responsible for evaluating the  
22          believability and accuracy of a witness's testimony.  
23          It's important that you be able to both fully comprehend  
24          what a witness is saying and how a witness is saying it  
25          without the distraction of taking notes.

1           The trial formally begins with what the law  
2           calls an opening statement by the prosecutor. The  
3           purpose of the People's opening address is to acquaint  
4           you, the members of the jury, with the specific charges  
5           and allegations set forth in the indictment and to give  
6           you an outline of what the case is about and what the  
7           People expect to prove in offering evidence at trial.

8           What the district attorney says in his opening  
9           statement is not evidence in this case. It's simply his  
10          outline to you.

11          Next, the defendant's counsel may, if he so  
12          desires, also deliver an opening address, but, of  
13          course, there is no requirement that he do so. That's  
14          because the defendant has no burden in the case. The  
15          burden lies entirely with the People.

16          Should the defendant's counsel present an  
17          opening statement, I caution you that just as the  
18          prosecutor's opening is not evidence, the defense  
19          counsel's opening is not evidence as well.

20          Now, after completion of the opening  
21          statements, the prosecutor will proceed with the  
22          presentation of evidence. Remember, the indictment is  
23          not evidence, it's simply a document that contains an  
24          accusation. The defendant has pled not guilty to the  
25          accusations and the trial is for you to hear the

1 evidence and decide whether the defendant is guilty or  
2 not guilty.

3 Testimony is, of course, the most common form  
4 of evidence and comes from the questioning of witnesses  
5 by the lawyers and perhaps the Court. A question by  
6 itself is not evidence. It is the question with the  
7 answer that is evidence. So, you must consider the  
8 question with the witness's answer and decide whether  
9 you find the answer believable and accurate.

10 Next, evidence may also come in the form of a  
11 stipulation. As I previously indicated, a stipulation  
12 is information which both parties agree to present to  
13 the jury as evidence without the necessity of calling a  
14 witness to testify as to the information provided.

15 Lastly, evidence may come in the form of  
16 physical objects such as documents, photographs,  
17 clothing or charts. When a lawyer is questioning a  
18 witness and in a question refers to a physical object  
19 for the first time, the object is normally marked for  
20 identification so we can more easily refer to it. An  
21 item marked for identification is not evidence and is,  
22 therefore, not available for your inspection and  
23 consideration.

24 Sometimes a lawyer will ask the Court to  
25 receive the object in evidence. If I grant a request to

1 admit the object in evidence, then the object becomes  
2 evidence and is available for your inspection and  
3 consideration during jury deliberations.

4 Now, during the trial you may hear that a  
5 lawyer or an investigator for a lawyer spoke to a  
6 witness about his or her testimony before calling him or  
7 her to testify. Also, a witness may review documents  
8 and other material pertaining to the case before he or  
9 she testifies at trial. The law permits such conduct  
10 and it is a normal part of preparing for trial and not  
11 improper at all.

12 After the People have completed the  
13 presentation of their evidence, the defendant may, but  
14 is not required, to present evidence.

15 Now, you will recall the fact that a defendant  
16 does not testify as a witness is not a factor from which  
17 any inference unfavorable to the defendant may be drawn.  
18 Remember, the defendant is presumed to be innocent. He  
19 has no burden to prove or disprove anything whatsoever  
20 at trial.

21 To the contrary, it is the People who have the  
22 burden of proving the defendant guilty beyond a  
23 reasonable doubt. That means, before you can find the  
24 defendant guilty of a crime, the People must prove  
25 beyond a reasonable doubt every element of each crime

1 charged, including that the defendant is the person who  
2 committed the crime.

3 The burden of proof never shifts from the  
4 People to the defendant. If the People fail to satisfy  
5 their burden of proof, you must find the defendant not  
6 guilty. If the People satisfy their burden of proof,  
7 you must find the defendant guilty.

8 Now, what does our law mean when it requires  
9 proof of guilt beyond a reasonable doubt? We spoke  
10 about it a little before jury selection. The law uses  
11 the term proof beyond a reasonable doubt to tell you how  
12 convincing the evidence of guilt must be to permit a  
13 verdict of guilty.

14 The law recognizes that in dealing with human  
15 affairs, there are very few things in this world that we  
16 know with absolute certainty other than taxes and death,  
17 right. You have heard that. Therefore, the law does  
18 not require that the People prove a defendant's guilt  
19 beyond all possible doubt.

20 On the other hand, it is not sufficient to  
21 prove that a defendant is probably guilty. In a  
22 criminal case, the proof of guilt must be stronger than  
23 that, it must be beyond a reasonable doubt.

24 A reasonable doubt is an honest doubt of the  
25 defendant's guilt for which a reason exists based upon

1 the nature and quality of the evidence. It is an actual  
2 doubt, not an imaginary doubt. It's a doubt that a  
3 reasonable person, acting in a matter of this  
4 importance, would be likely to entertain because of the  
5 evidence that was presented or because of the lack of  
6 convincing evidence.

7 In determining whether or not the People have  
8 proven the defendant's guilt beyond a reasonable doubt,  
9 you should be guided solely by a full and fair  
10 evaluation of the evidence. After carefully evaluating  
11 the evidence, each of you must decide whether or not  
12 that evidence convinces you beyond a reasonable doubt of  
13 the defendant's guilt.

14 Whatever your verdict may be, it must not rest  
15 upon baseless speculation, nor may it be influenced in  
16 any way by bias, prejudice, sympathy or by a desire to  
17 bring an end to your deliberations or to avoid an  
18 unpleasant duty. That means render a verdict.

19 If you are not convinced beyond a reasonable  
20 doubt that the defendant is guilty of the charged crime,  
21 again, you must find the defendant not guilty. If you  
22 are convinced beyond a reasonable doubt that the  
23 defendant is guilty of a charged crime, then you must  
24 find the defendant guilty of that crime.

25 As judges of the facts, you alone determine

1 the truthfulness and accuracy of the testimony of each  
2 witness. You must decide whether a witness told the  
3 truth and was accurate or, instead, testified falsely or  
4 maybe was simply mistaken. You must also decide what  
5 importance to give to the testimony you accept as  
6 truthful and accurate.

7 It's the quality of the testimony that is  
8 controlling, not the number of witnesses who testify.

9 Regarding police officer testimony or a child  
10 witness testimony, you evaluate such testimony in the  
11 same way you would evaluate the testimony of any other  
12 witness.

13 There is no particular formula for evaluating  
14 the truthfulness and accuracy of another person's  
15 statement or testimony. You bring to this process all  
16 of your varied experiences. In life you frequently  
17 decide the truthfulness and accuracy of statements made  
18 to you by other people. The same factors used to make  
19 those decisions should be used in this case when  
20 evaluating testimony.

21 There are, as I am sure you appreciate, rules  
22 for all stages of a trial, including rules that govern  
23 whether certain evidence may be introduced and, if so,  
24 how and when. Part of my job is to enforce those rules.  
25 The rules are designed to ensure that the evidence you



1 hear and see is relevant and in a form that permits you  
2 to evaluate it fairly. I'm now going to explain some of  
3 those rules that are commonly applied during a trial so  
4 that you will better understand the Court's ruling when  
5 it's made and you will appreciate, as I have just  
6 explained, that the rules are designed only to assure a  
7 fair and orderly trial.

8 During the presentation of evidence, the  
9 lawyers for the parties will, in turn, beginning with  
10 the assistant district attorney, be asking questions of  
11 a witness. During such questioning, if a lawyer  
12 believes a question or some other presentation of  
13 evidence is improper with a rule of law, that lawyer  
14 will object. Very normal.

15 When an objection is made, I will decide  
16 whether the rules permit the question to be asked or the  
17 evidence to be introduced.

18 Making objections is part of a lawyer's job.  
19 You are not to draw any unfavorable inference to either  
20 side just because a lawyer makes an objection. They  
21 take place at every trial.

22 A lawyer may object before a witness answers a  
23 question or after a witness answers a question. When an  
24 objection is made to a question before the witness  
25 answers, if I overrule the objection, the witness will

1 be permitted to answer. If I sustain the objection,  
2 there is no answer and, therefore, no evidence.  
3 Remember, a question alone is not evidence.

4 Now, if a lawyer objects after the witness has  
5 answered the question and I overrule the objection, the  
6 answer will stand as evidence. If I sustain the  
7 objection, the answer is not evidence, the question and  
8 answer are then stricken from the record and you are  
9 not -- and you are to completely disregard the answer.  
10 So, as a standing rule, if I sustain an objection after  
11 an answer is given, you are to strike the question and  
12 answer from your mind and not to use that in any way,  
13 shape, manner or form, okay.

14 Sometimes I will say stricken from the record.  
15 Sometimes I won't just to move things along, but recall  
16 that rule, okay.

17 Also, the Court has an obligation under the  
18 laws of New York to make sure that certain fundamental  
19 rules of law are followed even if one of the lawyers  
20 does not voice an objection. So, on occasion, you may  
21 hear me say sustained or words to that effect even  
22 though one of the lawyers has not objected. In any  
23 event, any ruling by the Court on an objection of  
24 counsel or otherwise is based on our law and my  
25 understanding of the law and expresses no opinion about

1 the facts of the case and whether the defendant is  
2 guilty or not guilty. Remember, you're responsible for  
3 that decision.

4 Now, from time to time during the course of  
5 the trial there will be conferences at the bench with  
6 counsel. If they become prolonged, it may be necessary  
7 for the Court and the parties to excuse themselves for a  
8 short period. If that happens, what generally will  
9 happen is I'll ask you to take a break and you will be  
10 escorted out of the courtroom by the court officer until  
11 I have finished with the conference with counsel. The  
12 conferences deal with questions and matters of law or  
13 scheduling of the trial and that's my responsibility.  
14 So, when the occasion does arise when there are  
15 conferences at the bench or outside of your presence, I  
16 ask you to be patient and understanding while the  
17 conferences are conducted.

18 Upon completion of the presentation of  
19 evidence, and I remind you that the defense has no  
20 burden whatsoever, it's the People's burden to present  
21 evidence, although defense counsel is certainly entitled  
22 to and would proceed after the district attorney has  
23 concluded his case.

24 Now, upon completion of all the evidence  
25 presented, the lawyers will address you in a closing

1 statement or what the law calls a summation. Defense  
2 counsel will go first, followed by the assistant  
3 district attorney. What a lawyer says in summation,  
4 just as what he says in openings, is not evidence. The  
5 summations simply provide each lawyer an opportunity to  
6 review the evidence presented and submit for your  
7 consideration the facts, inferences and conclusions  
8 which they contend may be properly drawn from the  
9 evidence presented.

10 After summations are concluded I will instruct  
11 you on the rules of law applicable to the case. You  
12 must accept and follow those rules. You will then begin  
13 your deliberations.

14 During your deliberations your function as  
15 jurors will be to decide what the facts are and to apply  
16 the rules of law that I set out. You will determine  
17 what the facts are from all the testimony that you hear,  
18 the exhibits that are submitted and any stipulations the  
19 parties have agreed to or, in other words, you will  
20 decide the case on the evidence. The conclusion you  
21 reach from determining the facts and applying the law  
22 will be your verdict, guilty or not guilty.

23 Under our law, juror number one will serve as  
24 the foreperson, so Mr. Valant, you are designated as the  
25 jury foreperson.

1                   During the trial, the foreperson has the same  
2                   responsibilities as any other juror. During  
3                   deliberations the foreperson will sign any note that the  
4                   jury sends to me, including that the jury has reached a  
5                   verdict. That's simply a formality.

6                   During deliberations, the jury foreperson has  
7                   no greater power or lesser power than any other of the  
8                   12 deliberating jurors. It's just a scribe, if you  
9                   will, to sign any note that comes from the jury. The  
10                  foreperson doesn't have to write the note. Any juror  
11                  can write a note. The foreperson will simply sign it  
12                  indicating that it comes from the jury. The foreperson  
13                  will announce the jury's verdict.

14                  Now, during the trial, if you need to speak  
15                  with me about something relating to your jury service or  
16                  the trial, please tell a court officer that you need to  
17                  speak to me. I will then arrange an appropriate meeting  
18                  with the parties in the courtroom.

19                  Do not discuss with your fellow jurors  
20                  whatever you feel necessary to bring to my attention and  
21                  after we have had our conversation, do not discuss with  
22                  your fellow jurors whatever it was we discussed unless  
23                  you get further instructions from me.

24                  During the trial, we do our best to avoid  
25                  delay. From experience, I know delays are inevitable

1 for a multitude of reasons through nobody's deliberate  
2 fault. When a delay occurs, I simply ask for your  
3 understanding and patience.

4 I also request that you be here at the times I  
5 set so the absence or lateness of a juror is not the  
6 occasion for delay. If an emergency arise that will  
7 make you late or prevent you from attending, please call  
8 the Court at the number that you have been given, leave  
9 a number where you can be reached and explain the  
10 problem so we can minimize everyone's convenience.

11 That being said, it's as important for the  
12 last juror to be on time as it is for the first juror.  
13 That's because you're one body. We cannot start until  
14 the last juror arrives. Please be considerate of your  
15 fellow juror's time and convenience when traveling to  
16 Court each day.

17 Now, we have two alternate jurors, numbers 13  
18 and 14. An alternate juror is expected to pay the same  
19 close attention to the case as any of the other 12  
20 jurors. The only difference between an alternate juror  
21 and one of the 12 jurors is that the alternate jurors do  
22 not know at this time whether you will be called at some  
23 point during the trial to substitute in for one of the  
24 12 jurors.

25 Our law expects that the first 12 jurors who

1 begin the trial will be the 12 jurors who will be there  
2 at the end of the trial and deliberate. So, it takes an  
3 extraordinary emergency before there will be a  
4 substitution for an alternate.

5 One final note. Please recall my instructions  
6 as to the definition of a fair jury. As you have  
7 observed, many prospective jurors were called and  
8 questioned and excused for one reason or another, but  
9 you, ladies and gentlemen, were selected to serve. You  
10 are the ones in whom both sides expressed confidence and  
11 are convinced will be fair and impartial and that each  
12 of you will keep an open mind throughout the trial and  
13 reach your conclusions and your ultimate decisions only  
14 during your final deliberations after listening  
15 carefully to the evidence, the summations of counsel and  
16 my instructions to you on the law and then only after  
17 exchanging views and reasoning together with other  
18 members of the jury.

19 Now, I had given you the shorthand version of  
20 certain restrictions on you while you serve as sworn  
21 jurors at this trial. I'll now give you the full  
22 explanation and the reasons why.

23 Our law requires jurors to follow certain  
24 instructions in order to help assure a just and fair  
25 trial.

1                   Now, first, do not converse or communicate  
2                   either among yourselves or with anyone else about  
3                   anything related to the case while you are serving as a  
4                   juror. You may tell the people with whom you live and  
5                   your employer that you are a juror and give them  
6                   information about when you will be required to be in  
7                   Court, but you may not talk with them or anyone else  
8                   about anything related to the case.

9                   Do not at any time during the trial request,  
10                  accept, agree to accept or discuss with any person the  
11                  receipt or acceptance of any payment or benefit in  
12                  return for supplying any information about the trial.

13                  You must promptly report directly to me any  
14                  incident within your knowledge involving an attempt by  
15                  any person to improperly influence you or any member of  
16                  the jury.

17                  Don't visit or view the premises or places  
18                  where the charged crimes were allegedly committed or any  
19                  other premises or places involved in the case.

20                  And you must not use Internet maps or Google  
21                  Earth or any other program or device to search for or  
22                  view any location discussed in the testimony.  
23                  Everything that you are going to need to render your  
24                  verdict will happen here through the testimony and  
25                  presentation of evidence at trial.



1 Do not read, view or listen to any accounts or  
2 discussions of the case reported by newspapers,  
3 television, radio, the Internet or any other news media.

4 Do not attempt to research any fact, issue,  
5 law or person related to this case, whether by  
6 discussion with others, by research in the library or on  
7 the Internet or by any other means.

8 Now, ladies and gentlemen I want you to  
9 understand why these rules are so important.

10 Our law does not permit jurors to converse  
11 with anyone else about the case or to permit anyone to  
12 talk to them about the case because only jurors are  
13 authorized to render a verdict. Only you have been  
14 found to be fair and only you have promised to be fair.  
15 No one else has been so qualified.

16 Our law also does not permit jurors to  
17 converse among themselves about the case until the Court  
18 tells them to begin deliberations because premature  
19 discussions can lead to premature final decisions.

20 Our law does not permit you to visit a place  
21 discussed in the testimony for the following reasons:

22 First, you cannot always be sure that the  
23 place is in the same condition as it was on the day in  
24 question.

25 Second, even if it were in the same condition,

1           once you go to a place discussed in the testimony to  
2           evaluate the evidence in light of what you see, you now  
3           become a witness and not a juror or a judge of the  
4           facts. As a witness, you may now have an erroneous view  
5           of the scene that may not be subject to correction by  
6           either party. That is simply not fair.

7                       Finally, our law requires that you not read or  
8           listen to any news accounts of the case and that you do  
9           not attempt to research any fact, issue, law or person  
10          related to the case. That's because your decision must  
11          be based solely on the testimony and other evidence  
12          presented to you in this courtroom. It would not be  
13          fair to the parties for you to base your decision on  
14          some reporter's view or opinion or upon information you  
15          acquire outside of the courtroom.

16                      The rules are designed to help guarantee a  
17          fair trial and our law, accordingly, sets forth serious  
18          consequences if the rules are not followed. I trust you  
19          understand and appreciate the importance of following  
20          these rules and in accord with your oath and promise I  
21          know you will do so.

22                      A final matter. You have seen through your  
23          days here in Court that it's a very public place.  
24          People are coming and going and interact or intersect  
25          with each other almost everywhere, including the

1 facilities.

2 A couple of rules: You will see, in  
3 particular, defense counsel and maybe Mr. Ross or maybe  
4 the assistant district attorney, some of the court  
5 officers, some of the staff, Mr. Clerk, Ms. Court  
6 Reporter or myself in the hallways. We will not say  
7 hello to you or acknowledge your existence, if you will.  
8 And that's not a crude act on our part, it's simply so  
9 that there is no reason for anyone to suggest that there  
10 was any impropriety or conflict with regard to you, the  
11 judges of the facts, and anyone else involved with this  
12 proceeding.

13 So please don't take any exception to anyone  
14 who passes by you and doesn't acknowledge you, okay.  
15 It's for those reasons and those reasons alone that we  
16 won't say good morning or hello, okay. And then I ask  
17 you to do the same. If you see us, simply pass by us  
18 without any type of acknowledgment, okay.

19 So with that, I have concluded my preliminary  
20 instructions and now I'm going to turn it over to  
21 Mr. Perri, the assistant district attorney, for his  
22 opening statement.

23 MR. PERRI: Your Honor, ladies and gentlemen  
24 of the jury, defense counsel, the evidence will show on  
25 August 3, 2014 Ray Ross, the defendant, a then

1        55-year-old man, was texting a 13-year-old girl,  
2        Millinia Johnson. A girl, not his wife, not his  
3        daughter, not his granddaughter, not his girlfriend,  
4        although he had all these relationships in his life at  
5        that time.

6                    At approximately 2:38 a.m. you will see that  
7        he was still up texting, texting a 13-year-old niece of  
8        his girlfriend, Tara Johnson. He was texting Millinia,  
9        nicknamed Patty, chatting at 2:38 a.m. what he was  
10       watching on TV, the fights.

11                   At that time the defendant lived upstairs in  
12       the same house as Millinia, 301 Coventry Road North,  
13       West Hempstead, Nassau County, New York State. The  
14       defendant lived upstairs from her in a bedroom with his  
15       girlfriend, Millinia's Aunt Tara.

16                   Also up there lived his girlfriend's daughter  
17       and children in yet another bedroom and Millinia's  
18       brother Malik in yet another room. Their grandmother,  
19       the homeowner, was in a nursing home.

20                   Millinia lived downstairs on the lower level  
21       of the split ranch house. She shared one room with her  
22       mother and three sisters. She even shared a bed. There  
23       was often not a working television down there, let alone  
24       one with cable. That was upstairs with the defendant,  
25       with Ray Ray as she called him.

1           The texts that night, you will see, were  
2           brief. They ended 2:42 a.m. that summer, the summer  
3           before Millinia started eighth grade. This was after  
4           the defendant already dialed her phone to no avail three  
5           times a little earlier, 1:37 a.m., 1:40 a.m., 1:42 a.m.

6           The evidence will show, however, that the next  
7           day the texts were neither brief nor were they innocent.  
8           From 4:45 p.m. through 9:15 p.m. the next day the  
9           defendant and a 13-year-old Millinia texted each other  
10          approximately 80 times.

11          You will see how the conversation started off  
12          with an apology from Millinia. She apologized that she  
13          could no longer go on trips to Brooklyn with the  
14          defendant because her mother, Sarita Johnson, Tara's  
15          sister, would not allow it anymore. This quickly sent  
16          the defendant into a rage against the child's mother.  
17          The defendant accused Sarita of not spending money on  
18          her daughter like the defendant would. Of Sarita, her  
19          mother, being jealous of her daughter's relationship  
20          with the defendant. Of him stating over and over that  
21          he is the only one that she can depend on.

22          The defendant persisted, demanding that the  
23          13-year-old make a choice, that she had to choose him  
24          over her mother.

25          You will read how Millinia was confused by all

1 this. She didn't know what to do, protesting that  
2 Sarita was still her mother, even though she didn't like  
3 that the defendant was not allowed to see her anymore.

4 This wavering, this failure to cast aside her  
5 mother in favor of the defendant, it was too much of an  
6 insult for the defendant to bear. The defendant  
7 informed her he was quote "finished with her." Finished  
8 with the niece of his girlfriend. That he was quote  
9 "done with her." Not because she didn't do her  
10 homework, not because she didn't do chores or summer  
11 reading or because she misbehaved in any way, shape or  
12 form. No, he was done, he was finished with a  
13 13-year-old because she quote "wants to go with the  
14 enemy," her mother.

15 Millinia, going by Patty, tells the defendant  
16 she loves him and sends him photos of them together in  
17 his white truck out on trips doing fun things together  
18 over the past year. And you will read the defendant  
19 tells her that he still loves her, but immediately  
20 demands back from her her clarinet, the instrument that  
21 he paid for but that she needed to play in her middle  
22 school band. Her betrayal had to cost her. He had to  
23 get that back.

24 He accuses her of being quote "brainwashed by  
25 her bum mom." The defendant decided she has to learn a

1 lesson, so then, although he had been in contact with  
2 her over the cell phone upwards of a dozen times that  
3 day, he just stopped picking up. In the phone records  
4 you will see Millinia desperately attempting to call  
5 him, the 55-year-old boyfriend of her aunt, calling him  
6 approximately 39 times in approximately a few minutes  
7 that night. And then after that, the texting continues.

8 Millinia does say something ugly. She  
9 threatens to cut his dick off so that no one else can be  
10 quote "smashed by him." The evidence will show you that  
11 means to have sex with him.

12 The only part of that sentence that disturbed  
13 the defendant, however, was that she threatened to  
14 castrate him. The obvious sexual inferences don't  
15 appear to surprise him at all. He continues to chat  
16 with a 13-year-old girl for hours after she said she  
17 would cut his dick off.

18 He tells the girl that her mother doesn't like  
19 him because she quote "can't control him." He tells the  
20 girl that she is quote "fucked up and troubled thanks to  
21 her mother."

22 And then after over a dozen completed or  
23 attempted phone calls over the next hour, Millinia  
24 texted the defendant plaintively quote "just give me one  
25 more chance." She explains she only threatened to

1 castrate the defendant because his penis belonged to  
2 her.

3 Now, the defendant's response, the evidence  
4 will show, was not to say that's inappropriate. It was  
5 not to go get her mother. It was not even to stop  
6 texting her or stop calling her. The defendant's  
7 response was simply two words, quote "that's selfish."  
8 Selfish for a 13-year-old girl to demand her sexual  
9 abuser's fidelity.

10 That's when Millinia continues to beg and the  
11 defendant finally offers her one more chance, but then  
12 again changes his mind, saying he needs to smash, to  
13 have actual sex, to have actual vaginal intercourse, as  
14 the evidence will show, which, thankfully, at that time  
15 was a bridge that he had not dragged Millinia across.

16 He texted quote "don't keep me on hold."  
17 Also, "you will lose me to somebody else." Texting this  
18 to the 13-year-old. He informs her then she's going to  
19 lose her clarinet, her money, her music. She's going to  
20 lose everything, including a bank account that he  
21 allegedly opened for her without her mother's knowledge.

22 Ladies and gentlemen, nowhere in those texts,  
23 nowhere will you see that he accuses her of doing  
24 anything actually wrong. Anything other than making him  
25 wait. Anything other than not choosing him over her



1 mother.

2 And around approximately 10:00 p.m. there are  
3 a few more texts, a few more phone calls and then a  
4 noticeable gap in time. And then after that gap, a  
5 message from the adult, from the defendant, the  
6 55-year-old who was right upstairs, quote "you left  
7 without saying good night or anything."

8 Millinia's response, I didn't want to wake  
9 you.

10 Ladies and gentlemen, Millinia will take the  
11 stand and she will fill in that gap. She will tell you  
12 that that night she went upstairs. She entered the  
13 defendant's bedroom and, like so many times before, like  
14 so many times since the end of her sixth grade year,  
15 like so many times since she was 12, past her 13th  
16 birthday, throughout her seventh grade year, through and  
17 including that night, Millinia will tell you that yet  
18 again this defendant sexually abused her.

19 She will tell you how he exposed his penis.  
20 How he would masturbate. How he would grope her breasts  
21 and buttocks. How he rubbed her vagina. How he placed  
22 his mouth on her vagina, licking it. How because  
23 Millinia would not willingly allow the defendant to  
24 place his adult penis in her 13-year-old mouth or place  
25 his penis in her vagina, he would compromise with her.

1 He would have her flip over and just rub his erect penis  
2 on her buttocks until he would ejaculate onto her.

3 Millinia will sit and tell you how the  
4 defendant, dozens of times, dozens upon dozens of times  
5 did this to her. Did this to her in her grandmother's  
6 home when her aunt was out with friends. When no one  
7 was protecting her from the nice generous man that lived  
8 upstairs.

9 How the defendant did this to her countless  
10 times parked at the National Wholesale Liquidators or  
11 once at the old Western Beef just up the road. It would  
12 happen in these locations when they were on their way  
13 back from the many, many trips that they took to  
14 Brooklyn to visit the defendant's other family. Trips  
15 that only Millinia, out of all the children and the  
16 adults, not even the defendant's own girlfriend, only  
17 Millinia was invited to go with the defendant on the  
18 weekends through sixth and seventh grade in school.

19 After all that, after all he had done for her  
20 and to her, how thoughtless it must have seemed to him  
21 for her to leave without saying good night.

22 Millinia will tell you also about a time  
23 before this was her life. She will tell you about a  
24 dance performance that she had at a talent show in her  
25 middle school where she danced to "Want You Back" by

1 Cher Lloyd with one of her best friends. Her mother was  
2 in the audience. It was a moment that was a happy  
3 memory, but a mile marker in her life. Because it was  
4 soon after this, not before this when the defendant  
5 first started taking an interest in Millinia.

6 It was her last quarter of sixth grade when he  
7 started to tell her she was pretty. When he started  
8 buying her ices and eventually offered to take care of  
9 paying for her phone because her uncle and father could  
10 no longer do that.

11 It was around this time that Millinia also  
12 started hanging out with the defendant, her new  
13 54-year-old friend. They would watch wrestling together  
14 in his room. She would run upstairs and hop on the bed  
15 because there was often no working television down in  
16 the basement.

17 At some point the defendant started to close  
18 the door and then at some point while she was still in  
19 sixth grade the defendant started rubbing her back and  
20 then one day the defendant took his hand, placed it down  
21 the back of her clothes and grabbed her buttocks inside  
22 of her underwear. And she said to him, What are you  
23 doing? And he said back, What are you doing?

24 Nothing more happened that day. He stopped.  
25 She eventually left. She didn't tell anyone. But she

1           went back. And soon thereafter the evidence will show  
2           that when she came back the defendant realized he could  
3           be bolder, so one day when it was warmer out before she  
4           still finished her sixth grade year, he put his hands  
5           inside her clothes again, but this time also rubbed her  
6           in her breast area and vagina all while he was still  
7           rubbing himself in his boxer shorts as he sat next to  
8           her on the bed.

9                     Alone in the room with her, this continued all  
10           summer. And this was the summer when they started  
11           taking trips to Brooklyn to go to the aquarium, to go  
12           get ices, to go get ice cream, to visit his other  
13           family.

14                    Now, first these trips on the way back were  
15           not eventful. Soon that changed as well. Instead of  
16           straight home in the evenings, they would stop at  
17           National Wholesale Liquidators in West Hempstead on the  
18           border of Hempstead, a few miles from home, still Nassau  
19           County.

20                    They would stop, however, not to go shopping.  
21           They would stop and he would say get in the back seat.  
22           He would have her take off her pants or shorts and he  
23           would do the same. Millinia will explain to you how he  
24           would play with himself. How he would rub his penis.  
25           How it would get hard and bigger. How it would point

1 up. How he would kiss her, rub her breasts under her  
2 shirt, her bottom and her vagina.

3 At some point that summer before she started  
4 seventh grade in 2013, the defendant would place his  
5 mouth on her vagina and lick it. He would tell her,  
6 then 12-years-old, that he wanted to have sex with her.  
7 Saying he wanted to smash her and also saying he wanted  
8 to fuck her.

9 At some point that summer he would then start  
10 to take her hand and place it on his penis. He would  
11 have her masturbate him and it was in that truck that  
12 Millinia will tell you how she remembers the defendant  
13 climaxing, having an orgasm. How he would curse when  
14 that would happen and then watery white stuff would come  
15 out of his penis.

16 Millinia and her mother will both tell you how  
17 she would go that summer and throughout seventh grade  
18 year two, three times a month out with the defendant on  
19 the weekends to Brooklyn. All throughout the time she  
20 was in seventh grade.

21 Millinia will tell you how more often than not  
22 this was how the trips ended, all the way through the  
23 summer, through September, through October, through  
24 November and through December. During this time she  
25 would also, multiple occasions during any given month,

1 visit the defendant in his bedroom at night or in the  
2 afternoon. The sexual contact continued. The oral  
3 sexual contact continued and it was in this bedroom  
4 before she reached her 13th birthday where he would get  
5 on top of her, have her face down and rub his penis  
6 against her butt until he ejaculated.

7 Around this time when Millinia was still 12,  
8 the defendant got Millinia a new cell phone. She didn't  
9 ask for it. Her mother didn't ask for it. And he  
10 didn't tell her mother he paid for it. He didn't tell  
11 anyone he bought the phone for her at all and that would  
12 be one of eventually two cell phones this defendant  
13 purchased for Millinia Johnson, that he would buy for  
14 her to keep track of her, to control her, to manipulate  
15 her, to ensure that she was his and no one else's.

16 He would start to call and they would start to  
17 call back and forth and they will start to text more and  
18 more. It will become every day, multiple times a day.

19 You will hear from Millinia and you will see  
20 in the defendant's phone records all these calls on this  
21 new phone happening while she's being seduced and  
22 sexually molested by this defendant.

23 Millinia and her mother will explain to you  
24 that she turned 13 on December 30th of 2013. The judge  
25 will explain to you at this point she ages out of the

1 statute defining the crimes of course of sexual conduct  
2 in the first and second degree. But the evidence will  
3 show you that this technicality obviously had no meaning  
4 for the defendant.

5 The evidence will show you that the abuse  
6 continued unabated past her 13th birthday through  
7 January, February, March, April, May, June into the  
8 summer after seventh grade year.

9 Millinia will tell you and you will see in the  
10 text messages from the final weeks of that abuse in  
11 August of 2014 that she thought at times she loved the  
12 defendant or at least that he loved her and she liked  
13 the attention and the gifts, maybe him. He promised her  
14 a car. He promised her that he and she would live in a  
15 house together some day.

16 You will learn these promises were targeted at  
17 Millinia and had their desired effect because of the  
18 life Millinia lived. Millinia's mother, Sarita Johnson  
19 who will also testify here, just like any one of us,  
20 she's not a sinner, not a saint 100 percent either way.  
21 She's not wealthy. She's not employed, training for  
22 work with DSS. She's not highly educated. There aren't  
23 many gifts in this house. There is not a lot of money  
24 and not a lot of hope going around.

25 Millinia, she's a teenager. You will see that

1 she likes being given money like any teenager would.  
2 She likes being given clothes. She likes being given a  
3 new free phone. She wants these things just like any  
4 teenager would. And like any teenager, the evidence  
5 will also show she wanted a father. Hers is not there  
6 and when he is, he doesn't have much money himself than  
7 her mom and has far less time for Millinia.

8 You may think Sarita should have done  
9 something sooner and you may be right. What the  
10 evidence will show you is that Sarita Johnson, the  
11 mother of Millinia, when she was finally confronted with  
12 the reality and the possibility of what was happening to  
13 her daughter, when she finally saw the text messages,  
14 she was and acted like Millinia's mother. She took  
15 repeated and definitive steps to protect her daughter  
16 from this defendant.

17 By the summer of 2014 Sarita decided her  
18 daughter was too close to this 55-year-old man. She was  
19 spending too much time with him, not enough time with  
20 her own family and not enough time with friends her own  
21 age.

22 During that summer she told Millinia she  
23 couldn't go to Brooklyn. She became angry, distant and  
24 fought with her mother about it, repeatedly accusing her  
25 of being jealous of the relationship she had with the



1 defendant.

2 Sarita, for all her faults, laid down the law  
3 and didn't allow Millinia to go to Brooklyn anymore.  
4 She also emphatically stated to Millinia in front of the  
5 defendant that she was too old to be hanging out with  
6 him alone in his bedroom any longer.

7 Although it was easy enough to make sure she  
8 didn't run off to Brooklyn on the weekends in the  
9 defendant's truck, it was harder to make sure the two  
10 didn't have contact at home. Thus, Millinia will tell  
11 you, now in July and the first weeks of August 2014, the  
12 sexual abuse continued at her home. The defendant  
13 having her repeatedly come up to his room.

14 August 8th the defendant tells her 9:18 p.m.,  
15 come up to the room once her mother's gone.

16 Millinia writing back, she's scared because  
17 her mother already threatened to call the police.

18 Then you will see the same pattern all over  
19 again, the defendant's threats against Millinia's  
20 mother. Millinia's request for her phone to get paid.  
21 The defendant promising to cut her off if she doesn't do  
22 what he wants. A long silent evening. Multiple late  
23 night phone calls between the two and a text from  
24 Millinia at 12:37 a.m., Ray Ray, if I lose you, I'm  
25 afraid I would lose who I will always love.

1 But that summer, that summer thankfully this  
2 cycle gets broken and it is Sarita Johnson who breaks  
3 that cycle.

4 Ms. Johnson will tell you how she came home in  
5 early August and found the two of them alone after she  
6 said they were not allowed to be. She found them in the  
7 defendant's room, the door closed, both on the bed.  
8 Millinia will explain the defendant had just started to  
9 rub her body when her mother knocked on the door. They  
10 stopped. Millinia's mom ordered her to go back  
11 downstairs and nothing else was said that night. But  
12 more was done.

13 A few days later Sarita took the phone as she  
14 slept and she looked at the text messages between her  
15 and the defendant and she was alarmed.

16 She confronted Millinia who became angry. She  
17 cried. She sobbed. But Millinia didn't tell her about  
18 all the sexual conduct. At that time Millinia refused  
19 to fill in the gaps for her mother. She was  
20 embarrassed. She was in trouble. She was conflicted  
21 about how she felt about the defendant. She didn't want  
22 to lose out on all the attention, the gifts. She didn't  
23 want to go back to living the life her mother couldn't  
24 provide her without the defendant being there.

25 Ms. Johnson, with what to her were obviously

1 inappropriate texts between a 55-year-old man and  
2 13-year-old girl, went on August 10, 2014 to the  
3 district attorney's office. She filed a complaint about  
4 just the texts and the unrelenting attention and  
5 aggressive behavior that she saw the defendant exhibit  
6 towards her daughter.

7 She didn't know whether or not the defendant  
8 was sexually abusing her daughter. She didn't report he  
9 had done that. Therefore, through no fault of her own,  
10 the Criminal Complaints Bureau did what all  
11 bureaucracies do with that limited report. They took it  
12 and filed it.

13 Ms. Johnson kept her daughter's phone. She  
14 watched her like a hawk. Millinia didn't go to  
15 Brooklyn. She didn't go to the defendant's room and she  
16 eventually started eighth grade. No more texts, no more  
17 calls for maybe two months. Maybe that is where it  
18 could have just ended sadly.

19 The evidence will show Sarita didn't go  
20 breaking down doors in the courthouse or show up  
21 repeatedly at the DA's office. She wasn't demanding  
22 action at every moment, seeking the defendant's head on  
23 a platter. For better or worse, out of ignorance, maybe  
24 out of hope, maybe the worst didn't happen and it was  
25 over and they can move on from this. She trusted the

1 system and got on with their lives. But it was the  
2 defendant who couldn't move on, who couldn't let go.  
3 Who couldn't just stay away from Millinia.

4 So, in October of 2014, he gave Millinia  
5 Johnson a second phone. Millinia, a 13-year-old girl  
6 who had been cut off from her digital life with her  
7 friends took that phone happily. But this phone, the  
8 evidence will show, was truly a secret phone. One her  
9 mother couldn't know about.

10 When the defendant started texting her on it,  
11 you will read how he was concerned about who other than  
12 her mother would know she had a phone. Soon thereafter,  
13 during the five days she had this phone, inappropriate  
14 calling and texting recommenced. Same numbers,  
15 different phones. Same cycle of love and rejection.  
16 Same goal; control and access.

17 You will see in the phone records and in the  
18 text messages the defendant's attempt to reestablish his  
19 old ways. But you will also see his growing impatience  
20 and his frustration with Millinia Johnson. She isn't  
21 visiting him. Instead, she's avoiding being alone with  
22 him and you will read the defendant demanding that she  
23 call, demanding that she will text him. Threatening to  
24 take the phone away again. Not as a punishment, not for  
25 doing anything except not giving him the attention he

1 required and the attention he felt he deserved.

2 He then writes quote "Don't worry, everything  
3 is going back like before." But Millinia is distant.  
4 She's realizing she doesn't want it to go back to like  
5 it was before.

6 Before anything more could happen, Millinia  
7 thankfully got sloppy. She forgot she's not supposed to  
8 have a phone. She missed the bus and called her mother  
9 on that phone who, when she picked up, was shocked and  
10 surprised that her daughter could be calling from her  
11 old cell phone number when her mom still had that old  
12 phone.

13 So, on or about October 17, 2014 she took that  
14 phone from Millinia demanding she unlock it, looked at  
15 the messages, confiscated it and Millinia this time  
16 admitted to slightly more sexual contact; kissing,  
17 touching, but not everything, not to her mother. Not  
18 when she was caught having the phone she wasn't supposed  
19 to have. She didn't immediately tell her mother at that  
20 point. She didn't tell her mother to her face the  
21 defendant performed oral sex on her or he ejaculated on  
22 her.

23 But with what her daughter told her, Sarita  
24 again took action. She went to the Child Advocacy in  
25 Bethpage. They then went to Family Court in Westbury,

1 got a stay away order of protection in favor of her  
2 daughter against the defendant. Finally back to the  
3 district attorney's office to file a second complaint  
4 written by Millinia with her mother still present though  
5 and that new complaint now contained additional  
6 allegations of kissing and inappropriate touching.

7 Pursuant to that order, the defendant moved  
8 out and eventually, over a year later, Tara, still his  
9 girlfriend, moved out to be with him.

10 Nevertheless, Millinia and her mother and her  
11 sisters still live in the basement of that house, one  
12 room sharing beds. The only difference financially is  
13 now they have to pay more of the bills associated with  
14 Sarita and Tara's mother's house that once were paid for  
15 by the defendant and by Tara.

16 After the defendant was gone, that second  
17 complaint that Sarita and Millinia filed finally came  
18 through the normal channels to the Fourth Precinct and  
19 Squad of the Nassau County Police Department. It was  
20 assigned to a male detective, Rhubens Toussaint, signed  
21 by a supervisor without any special instructions and  
22 Detective Toussaint reached out to Sarita, attempted to  
23 set up an appointment and eventually went to her home.

24 He went alone without a female officer,  
25 questioned Millinia in the squad car separate from her

1 mother. And Millinia was shy. You will hear Detective  
2 Toussaint describe her as embarrassed and upset to talk  
3 about it with a stranger. Slowly she opened up a little  
4 more and for the first time explained the initial  
5 details of her actual sexual abuse.

6 Sarita gave over the cell phones to the  
7 detective. Sarita also gave the detective the  
8 defendant's cell phone number. The detective called  
9 that number, spoke with the defendant, identified  
10 himself as a detective. The voice on the other end  
11 identified himself as the defendant and the detective  
12 arranged to have the defendant turn himself in.

13 During that arrest the defendant gave his date  
14 of birth, 3/31/1959, and cell phone number, the same  
15 cell phone number that he had been using to text  
16 Millinia for so long.

17 The day before the second secret phone was  
18 taken, the defendant texted Millinia at 12:08 p.m. The  
19 day before it was gone, that connection was lost. He  
20 texted her quote "you will never know what's good until  
21 it's gone. Don't be stupid. Nobody will ever treat you  
22 like me again."

23 Nobody, no grown adult, no 54- or 55-year-old  
24 man, no family friend, no alleged father figure should  
25 ever treat Millinia who is 12 and 13 like that again,

1 he's right.

2 The evidence will prove beyond all reasonable  
3 doubt that the defendant on or about and between March  
4 1, 2013 and December 29, 2013 had repeated, monthly, if  
5 not more than weekly, had sexual contact and oral sexual  
6 contact for his own sexual gratification with Millinia  
7 Johnson when she was 12-years-old and he was  
8 54-years-old.

9 The evidence will prove this conduct continued  
10 long after Millinia turned 13 and that along with the  
11 messaging, the calling, the manipulation, the control  
12 that the defendant executed against her was injurious to  
13 her mental, moral and physical welfare when she was less  
14 than 17 years of age.

15 The evidence will prove that the defendant is  
16 guilty on all counts of all the charges that are before  
17 you and, therefore, at the close of this case you will  
18 have to come back with the only verdict that justice  
19 demands, guilty. Guilty of everything contained in the  
20 indictment. Thank you.

21 THE COURT: Thank you, Mr. Perri.

22 Mr. Zerner.

23 MR. ZERNER: Thank you, your Honor.

24 Good morning, Judge Murphy, good morning  
25 members of the jury, good morning to the prosecutor.



1 It's quite a story you just heard, but it's just a  
2 story. The prosecutor has taken bits and pieces of what  
3 he's heard and he's done what he could do to make it fit  
4 into the parameters of the New York State Penal Law.  
5 You heard what he just said. I hope you all paid close  
6 attention to it and I hope you hold him to that.  
7 Because again, we discussed this in jury selection, he  
8 has the burden to prove these things.

9 Those were ugly things he just said. We  
10 talked about it during jury selection. If you had to  
11 vote before you saw any evidence, you have to vote not  
12 guilty.

13 Judge Murphy just told you this morning,  
14 opening statements are not evidence. Everything he just  
15 said to you is not evidence. It's not evidence. He has  
16 to be able to prove each and every one of these  
17 allegations that he's telling you right now. If you are  
18 unsure, just keep that word in mind, unsure. We all  
19 talk about beyond a reasonable doubt, presumed innocent,  
20 what does the standard mean. Just think to yourself, if  
21 you are unsure, he's not guilty now, and he stays not  
22 guilty.

23 Let me address the situation that we were  
24 talking about in this home. Ray Ross has been dating  
25 Tara Johnson since before Millinia Johnson was born.

1 Ray and Tara have not gotten married, but Ray and Tara  
2 have been together and are still together for about 16,  
3 17 years. You know how I know that? I have had  
4 multiple conversations with Tara Johnson. But don't  
5 worry about my conversations with Tara Johnson, Tara  
6 Johnson is going to take that witness stand and she's  
7 going to tell you.

8 So think about the family dynamic in this  
9 household, all right. Tara Johnson is the aunt of  
10 Millinia Johnson and Tara Johnson is the long-time  
11 girlfriend of Ray Ross. She's better suited than  
12 anybody in this room to know what was going on in that  
13 house, what was going on with her niece and perhaps,  
14 most importantly, with what was going on with her  
15 sister, Sarita Johnson.

16 Now, the prosecutor is going to start calling  
17 witnesses and I don't know if he's going to call Sarita  
18 Johnson and then Millinia or he's going to call Millinia  
19 and then Sarita, but you will hear from both of them,  
20 I'm sure of it. Again, just like you felt before I  
21 stood up, both of them are going to tell you a very  
22 powerful story. They have been working on that story  
23 for a year-and-a-half or two years. They have had the  
24 prosecutor helping them, preparing them for this day for  
25 a year. And again, when they're done answering

1 questions from the prosecutor, you are going to feel  
2 awful and you are going to feel like let's stop the  
3 trial right now, let's find a noose, let's find a  
4 guillotine, let's just kill Ray Ross right now. But  
5 again, you have to listen to everything and you have to  
6 wait for not just the questions that any witness is  
7 getting from the prosecutor, but listen to the questions  
8 that they get not only from myself, defending Ray Ross,  
9 but the Judge may ask questions also.

10 There may be times when the Judge is saying  
11 well, wait a minute, what was this and the Judge might  
12 interject and ask something of any witness. Let's just  
13 keep that in mind. Listen to everything along the way.

14 Now, this home in West Hempstead is the major  
15 asset in the Johnson family. The home is owned by  
16 Pauline Johnson who is in her mid-80s who is living in a  
17 home, who, unfortunately, it's my understanding,  
18 medically is unable to come and testify. But she's the  
19 owner of this home. And I'm not a real estate  
20 appraiser, I can't give you a precise dollar amount, but  
21 this family has had this home for a long, long time and  
22 this is ultimately what most of what we're talking about  
23 here boils down to.

24 Pauline Johnson has two daughters, Tara  
25 Johnson and Sarita Johnson. Tara Johnson, again, Ray

1 Ross' girlfriend. Sarita Johnson, Millinia Johnson's  
2 mother. These two sisters are very different. You will  
3 hear that Tara Johnson has worked for 20-odd years at a  
4 bank. She works a regular job, gets up every day and  
5 goes to work. She has a child and she has tried to help  
6 with her sister's children, with her nieces and nephews.

7 Sarita Johnson has four children by three  
8 different men.

9 MR. PERRI: Objection.

10 MR. ZERNER: And you are going to hear --

11 THE COURT: Overruled.

12 Mr. Zerner, please. Maybe you didn't hear.

13 MR. ZERNER: All I heard was a chair move.

14 THE COURT: When you hear a chair move, stop  
15 and see why the chair is moving. There was an objection  
16 and it's overruled, but I need an opportunity to rule on  
17 the objection.

18 MR. ZERNER: I apologize, your Honor, and  
19 sometimes I'm so in love with my own voice that I don't  
20 hear.

21 The Judge tells you when he overrules an  
22 objection, it means I'm allowed to say what I'm saying.

23 And ask yourself why the prosecutor is so  
24 interested in you not knowing that Sarita Johnson has  
25 four children by three different men.

1 MR. PERRI: Objection.

2 THE COURT: That objection is sustained.

3 Please move on.

4 MR. ZERNER: So Tara Johnson has always helped  
5 with her nieces and nephews. And the fathers of each of  
6 those children are around and you are going to hear from  
7 at least one of them testifying for the defense. And  
8 again, I ask that you listen very clearly and very  
9 intently, because the one thing we can all agree on is  
10 nobody in this room right now, except for Ray Ross, has  
11 been to that location, knows the people involved, has  
12 history with the people involved.

13 So you are going to hear different stories  
14 from different people and we talked about the order of  
15 these things. The prosecutor goes first and the  
16 prosecutor asks his questions of his witnesses first and  
17 you are going to be angry about what you are hearing  
18 because if it was true, it's awful. It's not true. Ray  
19 Ross has been falsely accused of this crime and there is  
20 a reason for it.

21 You are going to hear from various people in  
22 Sarita Johnson's life that will tell you that Sarita  
23 Johnson has manipulated and alienated multiple people in  
24 her life, including the fathers of her children,  
25 including her sister. And you are going to have a

1 better idea after you hear everything from everyone.

2 Ray Ross has never been accused of a crime his  
3 entire life. Ray Ross is a church going man. He tithes  
4 his ten percent of his income to his church. The way  
5 you have been hearing this, it sounds like Ray Ross is  
6 like the monopoly guy with the top hat on, that he's  
7 just this wealthy guy that is spreading money all around  
8 and owns the world.

9 Ray Ross is a sanitation worker. He's a hard  
10 working man. He gets up and goes to work early in the  
11 morning. He goes to church on Sundays, has three  
12 children. You will hear from them. You will hear from  
13 his ex-wife. Ask yourself, and we talked about divorce  
14 and everything else during jury selection, this is a man  
15 who has been accused of these awful crimes and the woman  
16 that he is not the husband to in 17, 18 years, will  
17 testify for him, all right. Ask yourself what that  
18 means about Ray Ross. Think about that.

19 And I have only been talking to you for about  
20 ten minutes, but I am pleased that I have gotten about  
21 11 of you to unfold your arms and I understand. Body  
22 language is something that we pay attention to and I  
23 understand. It's awful. I was sitting listening to  
24 Mr. Perri paint this picture also. All I'm asking you  
25 to do is listen to everything all the way through

1 because first you are going to hear from, I don't know,  
2 six, seven, eight different witnesses the prosecutor is  
3 going to call, all right. And again, you heard in his  
4 opening statement the prosecutor tell you the reasons  
5 that anything might not have been the way it should have  
6 been. So I think just towards the end of his statement  
7 he said well, Detective Toussaint, who is a gentleman,  
8 he's a man, went to the complainant's home by himself.  
9 And because he did that, that there were problems with  
10 what was received or the statement that was taken by  
11 Detective Toussaint.

12 So, okay, the prosecutor has to prove each and  
13 every element and these are his witnesses, but he's  
14 already making excuses for these witnesses. So either  
15 the detective knows what went on or the detective went  
16 and he messed things up or he didn't follow protocol. I  
17 don't know. We'll find out. He's going to testify.  
18 But the one thing he keeps telling you is that well,  
19 whatever the complainant did, we really shouldn't  
20 nitpick at it. We shouldn't really, you know, anything  
21 she did that isn't consistent, there is a reason for it.  
22 Anything she did that was consistent, you have to  
23 believe. Again, keep an open mind.

24 We talked about this during jury selection  
25 that I'm going to have to ask her questions. There are

1 going to be times you will be saying to yourself, he  
2 should back off. There will be plenty of objections.  
3 The prosecutor has been objecting already and we haven't  
4 really gotten started. But please realize that my  
5 client sits here innocent. He's not guilty. He's being  
6 falsely accused and these folks are telling a story and  
7 you have to allow me to do my job.

8 And let's examine what's being said, why it's  
9 being said, how it's being said. Let's look at that.  
10 That's what our job is here, right. We're really trying  
11 to find out can we figure out what happened and if we  
12 can't, if we're unsure, if at the end of eight, nine,  
13 ten days, whatever it ends up being, if you are still  
14 not sure, if you have a picture, as I expect you will,  
15 of a dysfunctional home with extended family, with  
16 multiple generations, with multiple parental figures,  
17 and if you say to yourself at the end, I don't know what  
18 happened in there, all right, it's just not clear, I'm  
19 unsure about what happened, you can't convict this man.

20 Now, in that same vein, the prosecutor has put  
21 forward charges and, again, they're only charges,  
22 powerful charges and he decides what the charges are  
23 going to be. The prosecutor gets to literally draft the  
24 charges, write the charges, right. He does that after  
25 he speaks to his witnesses. So he had plenty of time to



1 speak with Millinia Johnson and Sarita Johnson before he  
2 went into the grand jury and before he decided what he  
3 would charge my client with. And you will eventually  
4 see the actual language of those charges at the very  
5 end, all right.

6 I was taught that's where you start. My first  
7 day in the DA's office I was told look at each and every  
8 element.

9 (Pause in the proceedings.)

10 MR. ZERNER: I'm sorry, I thought I heard  
11 something.

12 THE COURT: You heard the chair move, but  
13 there is no objection. You can continue.

14 MR. ZERNER: That's where I am going to ask  
15 you to finish when you have the opportunity to look at  
16 the charges and ask yourself how do you defend yourself  
17 against an allegation that over a nine-month period of  
18 time you did something. Nine months, 275 days.

19 MR. PERRI: Objection, your Honor.

20 THE COURT: Ladies and gentlemen, just recall  
21 my instruction earlier that neither the prosecutor's  
22 opening statement nor the defense opening statement is  
23 evidence. You will make your determinations based on  
24 the testimony and other evidence that is presented to  
25 you at trial.

1 Please move on, Mr. Zerner.

2 MR. ZERNER: Of course.

3 So again, you will take a look at the language  
4 and you will decide for yourself is there proof beyond a  
5 reasonable doubt that Mr. Ross did any of these things  
6 at any time.

7 Now, again, the prosecutor is claiming that  
8 starting in March of 2013 something was going on.  
9 That's what he's claiming. The first time any legal  
10 governmental officials are involved with any of that  
11 stuff appears to be August of 2014. That's the first  
12 time. So that's August 2014 and now we stand here  
13 today, February 2016. Just think for yourself if you  
14 were accused of anything, anything, going back 34  
15 months, 35 months, how do you start? How do you start  
16 to show what --

17 MR. PERRI: Objection.

18 THE COURT: Overruled. Continue.

19 MR. ZERNER: Thank you, Judge.

20 Now, the prosecutor hits you over the head  
21 about one particular incident that he's claiming  
22 happened on a particular day at a particular time. But  
23 when you get a look at the charging sheet, when you get  
24 a look at the charge, itself, ask yourself why he didn't  
25 simply charge that.

1 I don't know if any of you used Superbowl  
2 boxes. You watched the Superbowl a couple of days ago,  
3 right. I'm always amazed at how complex they can be.  
4 You get zero and three and you are psyched. Those are  
5 good numbers. Other times the numbers change, first,  
6 second, third, fourth quarter the number change. Then  
7 there are boxes every time there is a score change. If  
8 it's six nothing, somebody wins. Then there is an extra  
9 point and somebody else wins. Not me, I'm very busy  
10 with trial preparation and I might have had some gluten  
11 free pretzels and chips. Somebody was telling me about  
12 a \$150,000 box. I'm sure it wasn't in this county. It  
13 wasn't legal.

14 They explained every time anybody scored there  
15 was a payoff and the boxes touching, it paid off. I'm  
16 not a horse racing guy, but apparently there is stuff  
17 like that where the touching close by you also get a  
18 payout of a different amount.

19 That's what the prosecutor is doing here. He  
20 can't prove one particular thing --

21 MR. PERRI: Objection.

22 THE COURT: Overruled.

23 MR. ZERNER: -- so he's trying to encompass  
24 it. Ask yourself why he keeps objecting.

25 THE COURT: Mr. Zerner.

1 Ladies and gentlemen, let me interrupt  
2 Mr. Zerner right there. As I have indicated to you  
3 earlier, objections are part of the process. They are  
4 absolutely permitted and the Court will make a  
5 determination whether the objection is a proper  
6 objection or an improper objection under the rules of  
7 law that apply to this particular case.

8 So, please don't take any exception, if you  
9 will, to my rulings with regard to an objection, okay,  
10 or the fact that an attorney has made an objection.

11 That being said, Mr. Zerner, please continue  
12 but don't offer your opinions with regard to why your  
13 adversary counsel is offering an objection.

14 MR. ZERNER: Your Honor, perhaps we should  
15 have sidebar.

16 THE COURT: No, sir, continue please.

17 MR. ZERNER: Thank you.

18 We talked during jury selection about what if  
19 you were charged with a crime. It came up each of the  
20 three days with the jury selection. I know not  
21 everybody was here for every day with everything. What  
22 if it were you? What if it were you?

23 Now you have been told over and over again by  
24 the judge that I don't have to put on a case. I don't  
25 have to even do this opening statement. Maybe some of

1       you are wishing that I wasn't. But you are hearing from  
2       me now and you are going to hear from Ray Ross at the  
3       end of the case.

4               Frequently you have the situation where you  
5       say I want to hear everything. Where you honestly say I  
6       don't know. That's what you honestly have to say. We  
7       also discussed this during jury selection: If you had  
8       to vote right now, you would have to vote not guilty. A  
9       lot of people hesitated when I asked that question and  
10      the hesitation is right, because the hesitation is well,  
11      what are you asking me? Obviously, I can't do anything  
12      now. We haven't heard anything yet.

13             The same situation now. I know it's day four  
14      and it snows every day now for some unknown reason. I  
15      know it's been a long four days and we have a lot of  
16      days ahead of us, all right, but just keep an open mind,  
17      please. That's your obligation. It's the right thing  
18      to do.

19             Again, imagine that you were charged with a  
20      crime, all right. We're going to hear a lot of stuff.  
21      I'm down to only one set of the folded arms. You are  
22      going to hear awful allegations. They're just  
23      allegations, that's all they are. There is a reason  
24      behind it, so please look for that as you hear from  
25      various witnesses coming forth.

1                   So, now as we discussed, you are going to hear  
2                   from Millinia Johnson. She's going to be a very  
3                   sympathetic individual. Now Millinia Johnson had an  
4                   extended family filling in where her mother could not.  
5                   She had a loving aunt that was in the household. She  
6                   had older siblings. She had a grandmother. She had a  
7                   safety net. We talked about it takes a village. She  
8                   had a safety net.

9                   You are hearing about cell phones. The first  
10                  cell phone she got was from her father. Other people  
11                  that were in her life were her half siblings' fathers.  
12                  These men tried to have an influence in their own  
13                  children's lives and in the lives of the children's half  
14                  siblings. So again, keep that in mind when you hear  
15                  about different things.

16                 You will hear from Ray Ross' children who are  
17                 not technically related to his girlfriend's sister's  
18                 children, right. But that wasn't the way they acted  
19                 towards each other. They acted as a family. And you  
20                 will hear how the different people in the family were  
21                 treated. How they treated each other. And ask yourself  
22                 when you hear about how Ray Ross acted towards any of  
23                 the children. Keep in mind the possibility is that Ray  
24                 Ross bought ices for all the children because he's a  
25                 kind and generous man. If he bought ices for all of

1 Sarita Johnson's children and for Tara Johnson's child  
2 and for his own children, it could be that he was buying  
3 ices because he was a nice guy and he was doing the  
4 right thing, not because he's grooming one of them as a  
5 possible victim or a later victim or anything like that.  
6 Keep that in mind, please. Please keep that in mind,  
7 all right.

8 Aunt Tara is still Aunt Tara. Aunt Tara tried  
9 to stay and support not only Millinia Johnson but the  
10 other nieces and nephews in the house for a year. So  
11 again, keep the time line in mind, right.

12 You have the matriarch of the family, Pauline  
13 Johnson, moves into an assisted living. She's not in  
14 the home anymore. That home you have these two sisters,  
15 Tara and Sarita Johnson, and you have multiple other  
16 people, multiple generations. The family tree extends  
17 left, right and down. And the bills are being paid in  
18 the household by a hodgepodge of everybody.

19 Again, Ray Ross is a good man and a generous  
20 man, but he's not a wealthy man. He's working a regular  
21 job. Tara Johnson is working a regular job. Sarita  
22 Johnson is not working. I don't know if she's  
23 contributing in any way, shape or form, but the way this  
24 house stays together, the way the oil bill gets paid,  
25 the way the cable bill gets paid, the way there is food

1 in the refrigerator, it comes from Tara and Ray.

2 Then in an attempt to control what's going on  
3 with the household, there are times when there are  
4 issues between Sarita and the various fathers of her  
5 children. But Ray Ross has a right to be there. Ray  
6 Ross is the guest, a one time paramour of Tara Johnson.  
7 He's lived there for years and years. He's in a  
8 committed relationship with Tara Johnson. This is Tara  
9 Johnson's home.

10 Now, Sarita and Tara don't see eye to eye.  
11 It's amazing that they are sisters because they are so  
12 different from each other, but they are sisters and this  
13 house belongs to both of them. You will hear Tara  
14 Johnson tell you that she got up in the morning, went to  
15 work in the bank, got home at night and tried to have  
16 little, if anything, to do with her sister. These are  
17 two women in their fifties and they co-existed.

18 Now, Tara wasn't trying to get Sarita to move  
19 out. Tara was trying to support Sarita, Sarita's  
20 children, help mother them. You are going to hear  
21 testimony and I started to allude to it before, before I  
22 was interrupted, that Ray's ex-wife Paula was also at  
23 that home, along with his current long-time girlfriend,  
24 and Paula does hair. She's a hair dresser. And you are  
25 going to hear that Paula would come to this house and do



1 the hair of Millinia and the other girls in the house.

2 Think about how much positivity there is for  
3 his ex-wife to still be active in his life with his new  
4 extended family. Think about that.

5 So, Sarita tries to bring charges in August of  
6 2014 and the DA is telling you well, there was a failing  
7 in the system and it was someone that wasn't trained and  
8 they weren't sure and it ended up in a drawer.

9 So Ray is still living in the house, Tara is  
10 still living in the house and Sarita is there most of  
11 the time because she's not working and she doesn't like  
12 it and she, again, goes to Family Court and she makes  
13 herself heard, let's put it that way. And she gets an  
14 order of protection which now requires that Ray Ross  
15 move out of the home.

16 So she's already gotten the fathers of her  
17 children to not be active in their lives.

18 MR. PERRI: Objection.

19 THE COURT: Objection sustained.

20 Please limit your comments to your challenges  
21 to the People's case.

22 MR. ZERNER: So Sarita Johnson now has Ray  
23 Ross removed from the home and Ray Ross moves out. It's  
24 not his home. He's not married to Tara. He moves out.  
25 He doesn't put up a fuss. He moves out of the house.

1 And Tara is conflicted. She stays there because she  
2 wants to be there for her family. These kids are her  
3 nieces and nephews and she's trying to be there for  
4 them. But she never, never, you will hear her, and  
5 Mr. Perri will have the chance to cross-examine her,  
6 hear what she says, how she says it, she never waivers.  
7 She's with Ray. She doesn't believe this. She believes  
8 that he is falsely accused and she will testify for Ray  
9 Ross.

10 But now a year goes by and Tara does move out  
11 because things in the home are just becoming untenable.  
12 So this house that was so important to everybody, now  
13 it's just Sarita and the kids living there and I don't  
14 know why she would still be living downstairs if there  
15 is an upstairs. Maybe we will hear that during the  
16 course of the People's case. That was something  
17 Mr. Perri said in his opening statement. But they have  
18 a whole house, at one point upwards of 12 people living  
19 in it, and now it's down to maybe five or four people  
20 living in it. So I don't know why five people would be  
21 living in one room if there are three empty rooms. But  
22 maybe we will have an explanation to that. Or maybe you  
23 will be told there is no explanation, but you have to  
24 just accept that.

25 You don't have to just accept that. Demand

1           answers. And if you are unsure, that's what reasonable  
2           doubt is. You are not sure.

3                       Now, we also talked about during jury  
4           selection that we're not going to give anybody extra  
5           credit when they testify, right. It's Long Island.  
6           There are a ton of police that live on Long Island. I  
7           have worked with tons of police. My neighbor is a cop.  
8           Again, it's one degree of separation. I believe there  
9           are about 5,000 police officers.

10                   THE COURT: Mr. Zerner, excuse me, this is  
11           opening statement, this is not jury selection, so that  
12           bridge has been crossed. So if you are talking about  
13           witnesses, please talk about the witnesses without the  
14           preparatory introductions.

15                   MR. ZERNER: Just trying to tie it together.  
16           Some of the jurors haven't been here since Thursday,  
17           your Honor, I'm sorry.

18                   The point is you will hear from police  
19           personnel and we talked about garbage in, garbage out.  
20           If they have bad information, these are bad charges.

21                   You also said you are not going to give any  
22           witness any more credibility. I expect there will be a  
23           box of tissues at the witness stand and you will have  
24           people crying. It's awful allegations, but again, keep  
25           in mind that they are just another witness who is

1 telling another story.

2 If you are unsure, despite the fact you have a  
3 crying child or a screaming mother or any of that,  
4 understand that you have to evaluate their credibility  
5 as a whole, all right. Don't let the meter of your  
6 believing any particular witness be set until we're  
7 done, okay. Listen to everything. Because here, I'm  
8 standing here right now with you on February 9th and you  
9 might hear from Tara Johnson today. I'm sorry, you  
10 might hear from Sarita Johnson today. But I want you to  
11 remember what I'm telling you about Tara Johnson. You  
12 won't hear from Tara Johnson until probably seven,  
13 eight, nine days from now. It's very difficult to keep  
14 it all together, that's what I'm saying.

15 If you kind of imagine one of those red lines  
16 that you turn right and it shows that if you like  
17 something or you don't like something or one of the  
18 surveys they give you at every restaurant, they give you  
19 the iPad, tell me how the service is, if it's a nine or  
20 ten. Don't set those things until you are done with  
21 everything.

22 Because Sarita Johnson comes in here and tells  
23 you she's the mother of the year and she's doing her  
24 best, despite everybody hurting her, wait until you also  
25 hear from Tara Johnson. Wait until you hear from Ray

1 Ross. Wait until you hear about everything before you  
2 set how you are evaluating any of it.

3 I didn't look over at the court reporter  
4 before. I'm not sure if I'm going to too fast or too  
5 slow. I think I'm probably doing a little bit faster  
6 than preferred and I'm sorry about that, but the huge  
7 benefit of having Kathi here, of having a court reporter  
8 here is if you are unsure about anything, and I'll talk  
9 about this again at my closing statement, everything is  
10 there. Everything we're saying there is a record of.  
11 So whatever you hear today and you are trying to  
12 remember and you can't talk to each other during the  
13 trial and then at the end there is going to be  
14 summations and you are going to say to yourself what was  
15 said back on February 9th or February 10th, it's okay,  
16 because all of it is right there available for you to  
17 hear and for you to remember.

18 You may hear from a quote, unquote "expert  
19 witness." Please listen carefully to him as well. Ask  
20 yourself does he have an agenda. Ask yourself does he  
21 actually know the people involved? Ask yourself is he  
22 using hypotheticals? Is he saying well, this is being  
23 said and because of this, that must have happened? Ask  
24 yourself if he had an open mind when he started the  
25 process or if he came into this with belief that then

1           tainted how he views the information that he's being  
2           given and ask yourself why is he here, who is paying him  
3           to be here, please.

4                       Now aside from that, ladies and gentlemen, all  
5           I really want to do is thank you. This is one of the  
6           most difficult cases that you are going to possibly ever  
7           be a juror for your entire life. It's difficult. It  
8           simply is. Whatever you thought when you first got that  
9           little card in the mail that told you to call in for  
10          jury duty, you didn't think this. You just didn't. I  
11          know you didn't. But this is where we are. And as  
12          distasteful as some of what we're going to hear is going  
13          to be, remember your oath, remember what we've been  
14          discussing, that this man is presumed innocent, that  
15          this man is the beneficiary of needing this case proven  
16          beyond a reasonable doubt.

17                     If you are unsure, you must come back with the  
18          only verdict for all of these charges that Ray Ross is  
19          not guilty. Please keep an open mind. Please listen to  
20          everything. Please don't prejudge him, as you would not  
21          want to be prejudged if you were ever, God forbid, in  
22          the position that he is in right now. Thank you very  
23          much, ladies and gentlemen.

24                     THE COURT: Thank you, Mr. Zerner.

25                     So, ladies and gentlemen, we've been going for

1 a while now so what I'm going to do is give you a  
2 five-minute break to use the facilities, stretch your  
3 legs and such.

4 Remember my admonitions. Don't talk about the  
5 case. Just take a break. Quite frankly, a full break  
6 until we call you back in about five or seven minutes,  
7 okay.

8 (Whereupon, the jury exited the courtroom.)

9 THE COURT: Okay, Counsel, five minutes.

10 MR. ZERNER: I don't know if you want to do it  
11 now or after we come back from the break, your Honor. I  
12 wanted to quickly put one thing on the record, if I may.  
13 I apologize, your Honor, I have never tried a case  
14 before you before. However, last week I was given a  
15 two-page trial instruction manual of sorts.

16 THE COURT: Yes, sir.

17 MR. ZERNER: And in that instruction I was  
18 told that for objections there should be no colloquy and  
19 if there is a problem we should ask for sidebar. That's  
20 all I did during what happened during the opening. I'm  
21 shocked that there were so many objections during the  
22 opening. It's not my practice to do that and I didn't  
23 do that to Mr. Perri. Obviously, it's his right to do  
24 what he wants to do. However, as we're on the precipice  
25 of him calling witnesses, I simply want to obey the

1 rules of this courtroom and if I think that we need  
2 sidebar, I think what you want is for me to ask for a  
3 sidebar.

4 THE COURT: That's correct, but I hold the  
5 discretion and authority to either grant that sidebar or  
6 deny it. And with regard to the objection that was  
7 sustained and you requested a sidebar, the Court, in its  
8 authority and discretion, declined that request.

9 Now, if you want to put something on the  
10 record outside the presence of the jury, you can. I'll  
11 give you that opportunity, but I was not going to  
12 interrupt your opening statement with sidebar that I  
13 thought was not required or appropriate at the time.

14 MR. ZERNER: Okay. Like I say, I'm not even  
15 so much talking about during openings, I'm really  
16 looking forward to the length of this trial, itself and  
17 it seems to me that it's clear that Mr. Perri is going  
18 to try to object on a frequent basis and that's fine and  
19 I understand that and I see that coming, but I think  
20 there will be multiple times that perhaps I think a door  
21 has been opened and he doesn't and we're going to need  
22 to have a sidebar and I know it slows things down. I  
23 don't want to do it, but I'm simply discussing it with  
24 you now so that if and when this arise we have had this  
25 preliminary conversation.



1 THE COURT: Understood, Mr. Zerner. I say  
2 again, I reserve my right to decline a request for  
3 sidebar. Although I recognize that we would be in a  
4 different posture when we're engaged in testimonial  
5 evidence where an objection is lodged versus an opening  
6 statement which is not evidence where an objection is  
7 lodged, okay. Does that assuage your concern?

8 MR. ZERNER: To a certain extent, yes, your  
9 Honor.

10 THE COURT: Good. I'll certainly always give  
11 you the opportunity to make a record at an appropriate  
12 time, but if I feel the objection should be sustained  
13 based on the mere fact that an objection is raised, I'll  
14 do that. If there requires further explanation for the  
15 record for appellate purposes, we'll do it outside the  
16 presence of the jury at an appropriate break time.

17 MR. ZERNER: Of course, your Honor. Thank you  
18 so much.

19 (A recess was taken.)

20 (Whereupon, People's Exhibits 1 through 9 were  
21 pre-marked for identification outside the presence of  
22 the Court and jury.)

23 (Whereupon, the jury entered the courtroom.)

24 THE CLERK: Let the record reflect the  
25 presence of the jury.

1 Are the People ready?

2 MR. PERRI: Yes, your Honor.

3 THE CLERK: Is defense ready?

4 MR. ZERNER: The defense is ready, thank you.

5 THE COURT: So welcome become, ladies and  
6 gentlemen. As you see, that five minute to seven minute  
7 break turned into 20 minutes, okay, but that happens on  
8 occasion.

9 I'll try to limit it as much as I can, but I  
10 took care of a matter that was unrelated to our trial in  
11 the exercise of my other responsibilities and  
12 obligations. So now it's 20 after 12 and the witness  
13 that the People will be putting on is going to be a  
14 fairly extensive witness, so logistics suggest that we  
15 take our break for lunch now and then we'll be back here  
16 promptly at 2:00 p.m. for the testimony of the People's  
17 first witness.

18 So, enjoy your lunch. Please remember my  
19 admonitions. Forget about the case until you come back  
20 from lunch. See you in a bit.

21 (Whereupon, the jury exited the courtroom.)

22 THE COURT: Mr. Perri, you had something for  
23 the record.

24 MR. PERRI: Yes, your Honor. Just in the  
25 spirit of full disclosure, the People, through their

1 social worker that works in the office as a crime victim  
2 advocate, provided Sarita Johnson with approximately \$40  
3 for the purpose of paying for her cell phone. It had  
4 been turned off and in order to logistically to be able  
5 to arrange her here today, as well as her child  
6 tomorrow, the People need to remain in contact with her.

7 We also provided through that same social  
8 worker a blouse and I believe possibly a sweater for  
9 Millinia Johnson.

10 THE COURT: Very good.

11 Mr. Zerner, you acknowledge receiving that  
12 information?

13 MR. ZERNER: I acknowledge receiving that  
14 information and I expect that I'll be allowed to  
15 cross-examine on that, if I so choose.

16 THE COURT: All right. Those decisions will  
17 be made at the appropriate time.

18 With regard to the child victim advocate,  
19 because we had one instance not related to this trial  
20 where the advocate came in with the witness, you're put  
21 on notice.

22 MR. PERRI: Yes, your Honor, I'm aware the law  
23 does not permit that what happened in that other  
24 incident.

25 MR. ZERNER: Your Honor, if I may just follow

1 up on that. Was the advocate in the grand jury?

2 THE COURT: We're going to discuss that  
3 outside. I'm going to break now and we'll talk about  
4 that, if necessary, off the record.

5 2:00 p.m. for all.

6 MR. PERRI: Yes, your Honor.

7 (A luncheon recess was taken.)

8 AFTERNOON SESSION

9 THE CLERK: Continued case on trial, People  
10 versus Ray Ross.

11 People ready?

12 MR. PERRI: Yes, your Honor, the People are  
13 ready.

14 THE CLERK: Defense ready?

15 MR. ZERNER: Yes, we are, thank you.

16 THE CLERK: The jury is not present, Judge.

17 THE COURT: People.

18 MR. PERRI: Your Honor, with respect to the  
19 conversation we had in chambers prior to the luncheon  
20 recess, the district attorney's office contacted the  
21 records department of the Family Court here in Nassau  
22 County. ADA Rosenbaum spoke with one of the members of  
23 the records department regarding the orders of  
24 protection in this case. The orders of protection that  
25 were issued were never vacated until their maximum

1 expiration date. They remain in full force and effect,  
2 according to the Family Court, your Honor, until the  
3 expiration date and at that time, obviously, this is a  
4 point for argument, but at that time there was a full  
5 stay away order of protection in effect with this case,  
6 your Honor.

7 THE COURT: Now, you wish to offer those  
8 orders of protection for what purpose?

9 MR. PERRI: Your Honor, the People wish to  
10 offer those orders of protection for the purpose of  
11 completing the narrative primarily. As defense counsel  
12 opened on that steps were not reasonable, steps were not  
13 taken in this case, that there was a long delay in the  
14 eventual prosecution of the defendant, there were events  
15 that the mother in this case did take to protect her  
16 child. One of those was petitioning for an order of  
17 protection for that child in Family Court that was  
18 granted. That the orders of protection, themselves  
19 would corroborate her testimony that she did take those  
20 affirmative steps for her child.

21 Those orders removed the defendant from the  
22 home and he was not there present when Detective  
23 Toussaint came to interview the child and we believe  
24 that is integral to the narrative and to how the  
25 investigation unfolded, your Honor.

1 THE COURT: So it goes to Ms. Johnson's  
2 credibility with regard to the timing and the  
3 circumstances of Mr. Ross' departure from the household?

4 MR. PERRI: Yes, your Honor.

5 THE COURT: Okay.

6 Mr. Zerner, do you have any reply?

7 MR. ZERNER: Very briefly, your Honor. What's  
8 the date of Detective Toussaint's visit that the People  
9 are talking about here?

10 THE COURT: That will come in through  
11 testimony.

12 MR. ZERNER: Right, but I just want to see if  
13 the time line makes sense from what he's saying. We're  
14 talking about O.P.s from October. Name the dates. I  
15 know there was more than one.

16 THE COURT: That is subject to inquiry at  
17 trial. This is not, you know, a give and take between  
18 counsel with regard to visitation. You have whatever  
19 Rosario material is required to be turned over.

20 MR. ZERNER: That's fine. I'll dig through  
21 for that. I thought it would be easier.

22 With regards to the order of protection that  
23 the counsel for my client at that proceeding agreed to  
24 the order of protection, so it was on consent. There  
25 was no Judge that ruled after any type of colloquy back

1 and forth about whether or not this order of protection  
2 should be granted. So, it seems to me that the  
3 prosecutor here shouldn't be able to couch his offering  
4 of these documents into evidence as showing that another  
5 Court of competent jurisdiction made any type of ruling  
6 about this issue.

7 THE COURT: Okay. That's all subject to  
8 cross-examination and the circumstances under which --  
9 how are you going to get the orders of protection in,  
10 Mr. Perri?

11 MR. PERRI: Your Honor, the People have and  
12 have marked for identification certified copies that are  
13 stamped and sealed by the Family Court with a raised  
14 seal present and they would be moved in under the CPL,  
15 your Honor, under a certified municipality record of the  
16 state, yes, your Honor.

17 THE COURT: However, the matter is being  
18 inquired of on direct examination, Mr. Zerner, you have  
19 your opportunity for cross-examination on it. That  
20 being said, we can bring the jury in.

21 (Whereupon, the jury entered the courtroom.)

22 THE CLERK: Let the record reflect the  
23 presence of the jury.

24 Again, are the People ready?

25 MR. PERRI: Yes, your Honor, the People are

1 ready.

2 THE CLERK: Is defense ready?

3 MR. ZERNER: Yes, the defense is ready.

4 THE COURT: Good afternoon, ladies and  
5 gentlemen. We're about to begin the testimonial aspect  
6 of the trial.

7 Mr. Perri.

8 MR. PERRI: Your Honor, the People call Sarita  
9 Johnson.

10 S A R I T A J O H N S O N, residing in the County of  
11 Nassau, having been called as a witness on behalf of  
12 the People, having been duly sworn by the Clerk of the  
13 Court, was examined and testified as follows:

14 THE CLERK: State your name and spell both  
15 your last name and your first name. Give us your county  
16 of residence.

17 THE WITNESS: My name is Sarita Johnson,  
18 S-A-R-I-T-A J-O-H-N-S-O-N. I live at 301 Coventry Road  
19 North, West Hempstead, New York, Nassau County.

20 THE COURT: Mr. Perri, your witness.

21 MR. PERRI: Thank you, your Honor.

22 DIRECT EXAMINATION

23 BY MR. PERRI:

24 Q. Good afternoon, Ms. Johnson.

25 A. Hello.



1 Q. Ms. Johnson, you already stated you lived at 301  
2 Coventry Road North in West Hempstead. How long have you  
3 lived there?

4 A. Over 40 years.

5 Q. In the vicinity of your home, is there a National  
6 Wholesale Liquidators?

7 A. Yes, there is.

8 Q. Where is it located?

9 A. Hempstead Avenue, West Hempstead.

10 Q. Is that in Nassau County?

11 A. Yes, it is.

12 MR. PERRI: I ask that the witness be shown  
13 what's been marked for identification as People's 3, 4  
14 and 5, your Honor?

15 THE COURT: Please.

16 (Handed to witness.)

17 THE COURT: Ms. Johnson, you can take a look  
18 at those items.

19 THE WITNESS: Okay.

20 Q. Ms. Johnson, after you reviewed those three items,  
21 do you recognize them?

22 A. Yes, I do.

23 Q. What do you recognize them to be?

24 A. National Wholesale Liquidators.

25 Q. When you say that, are they photographs of National

1 Wholesale Liquidators?

2 A. Yes, they are.

3 Q. Are they fair and accurate depictions of how that  
4 location looks?

5 A. Yes, they are.

6 THE COURT: At what time, Mr. Perri?

7 Q. From -- is that a fair and accurate depiction of  
8 how they looked in 2013 through the present?

9 A. Yes.

10 MR. PERRI: Your Honor, I ask they be received  
11 in evidence.

12 THE COURT: Any objection, Mr. Zerner?

13 MR. ZERNER: I would like a brief opportunity  
14 to look at the photos and perhaps to have a brief voir  
15 dire.

16 THE COURT: You may.

17 MR. ZERNER: If I can have a brief voir dire.

18 VOIR DIRE EXAMINATION

19 BY MR. ZERNER:

20 Q. Good afternoon, Ms. Johnson.

21 A. Good afternoon.

22 Q. Ms. Johnson, did you take these photographs?

23 A. No, I did not.

24 Q. Do you know when these photographs were taken?

25 A. No, I do not.

1 Q. Do you know who took these photographs?

2 A. No, I do not.

3 Q. When were you shown these photographs for the first  
4 time?

5 A. Yesterday.

6 Q. Yesterday you were shown these photos for the first  
7 time?

8 A. Yes.

9 Q. But you have no idea when these photos were taken?

10 A. No.

11 MR. ZERNER: Your Honor, I object at this  
12 time. She doesn't know anything about the photos.  
13 There is no snow in the photos. Clearly they weren't  
14 taken recently. I don't know what the relevance of  
15 these photos is.

16 THE COURT: Mr. Perri, you want to respond?

17 MR. PERRI: Your Honor, the relevancy of the  
18 photos will be established by further testimony that the  
19 People anticipate will be one of the locations of the  
20 incident. They are relevant as to the layout, the  
21 location that the witness is familiar with it of that  
22 establishment and it is not relevant whether or not the  
23 witness took the photos as far as the foundation for  
24 them to be admissible.

25 THE COURT: The objection is sustained.

1 MR. ZERNER: Thank you, your Honor.

2 THE COURT: I sustained the objection,

3 Mr. Perri.

4 MR. PERRI: Yes, your Honor.

5 DIRECT EXAMINATION (Cont'd)

6 BY MR. PERRI:

7 Q. Ms. Johnson, is there a Western Beef grocery store  
8 near your home?

9 A. Yes, there is.

10 Q. And where is it located?

11 A. Woodfield Road.

12 Q. And has that Western Beef moved?

13 A. Yes, it has.

14 Q. Now, Ms. Johnson, where was the old location for  
15 the Western Beef grocery store?

16 A. Both are located on Woodfield Road, but further  
17 down closer to Hempstead Avenue.

18 Q. And what towns were they in?

19 A. West Hempstead.

20 Q. Now, as far as the National Wholesale Liquidators  
21 and the Western Beef, are they located in the County of  
22 Nassau?

23 A. Yes, they are.

24 Q. Now, about your home, 301 Coventry Road, who owns  
25 that house?

1 A. My mother.

2 Q. And where is she presently living?

3 A. She's in a nursing home.

4 Q. Why is she in a nursing home?

5 A. She had a stroke.

6 Q. How long has she been in the nursing home?

7 A. Five, six years.

8 Q. Now, I'm talking about today, who is living at 301  
9 Coventry with you?

10 A. My children, Malik, Mercedes, Millinia, Sherima and  
11 my sister's daughter Taqiyya, my niece.

12 Q. I'm sorry, just to clarify, when you say Taqiyya a  
13 niece, is she your niece?

14 A. Yes.

15 Q. Who is Taqiyya's mother?

16 A. Tara is her mother.

17 Q. Where does Taqiyya live in the house?

18 A. A bedroom upstairs to the right.

19 Q. And does anyone live with Taqiyya?

20 A. Her children.

21 Q. Now, specifically about your daughter Millinia,  
22 where does she live?

23 A. Downstairs.

24 Q. Who else lives with Millinia downstairs?

25 A. I do, my daughters, the two other daughters and

1 myself.

2 Q. How old is Millinia right now?

3 A. Fifteen years old.

4 Q. What's her date of birth?

5 A. 12/30/2000.

6 Q. Now, does your daughter Millinia go to school?

7 A. Yes, she does.

8 Q. What school does she go to?

9 A. Malverne High School.

10 Q. What grade is she in right now?

11 A. Ninth grade.

12 Q. Has Millinia ever skipped a grade?

13 A. No, she hasn't.

14 Q. Has she ever been left back?

15 A. No.

16 Q. Has she ever taken off any extended periods of time  
17 from school?

18 A. No.

19 Q. Does Millinia have a nickname?

20 A. Yes.

21 Q. What is her nickname?

22 A. Patty.

23 Q. Not today, but back in 2013 when Millinia was in  
24 sixth grade, were you still living in the same house?

25 A. Yes, I was.

1 Q. Were your children living with you?

2 A. Yes.

3 Q. And who else was living in the house at that time  
4 that you haven't mentioned?

5 A. The defendant Ray Ross and my sister Tara.

6 Q. And when you say the defendant, could you please  
7 point out the person you mean by pointing at them and naming  
8 an article of clothing they are wearing?

9 A. Sitting right there in black.

10 MR. PERRI: Your Honor, may the record reflect  
11 the witness has identified the defendant?

12 THE COURT: So noted.

13 Q. How long have you known the defendant?

14 A. Ten years at least.

15 Q. And who is he to your family?

16 A. My sister's boyfriend.

17 Q. And, to your knowledge, is your sister still in a  
18 relationship with the defendant?

19 A. Yes, she is.

20 Q. How long has she been in a relationship with the  
21 defendant?

22 A. At least ten years.

23 Q. When did the defendant move into -- withdrawn.

24 When did the defendant move into your mother's  
25 house?

- 1 A. Between eight and ten years ago.
- 2 Q. Has he been living there ever since?
- 3 A. Yes.
- 4 Q. Was he living with you in 2013?
- 5 A. Yes.
- 6 Q. And does he presently live with you?
- 7 A. No.
- 8 Q. To your knowledge, was the defendant married
- 9 previously?
- 10 A. Yes.
- 11 Q. Does he have children?
- 12 A. Yes, he does.
- 13 Q. Does he have grandchildren?
- 14 A. Yes.
- 15 Q. In comparison to Millinia, approximately how old
- 16 are his children?
- 17 A. Twenties, late 20s, 30s.
- 18 Q. And do you know the name of the defendant's wife?
- 19 A. Yes.
- 20 Q. Have you met her?
- 21 A. Yes, I have.
- 22 Q. What is her name?
- 23 A. Paula Ross.
- 24 Q. And where does she live?
- 25 A. Brooklyn.



1 Q. Ms. Johnson, are you currently employed?

2 A. No, I'm not.

3 Q. How do you support yourself and your family?

4 A. Social Services child support.

5 Q. What, if anything, is the Department of Social  
6 Services requiring you to do in order to receive support?

7 A. Job readiness training program that I'm involved  
8 in.

9 Q. And when was the last time that you were full time  
10 employed?

11 A. '07.

12 Q. Who did you work for?

13 A. Veterans Transportation.

14 Q. What did you do for them?

15 A. I was a bus matron.

16 Q. Now, when you were living at 301 Coventry Road in  
17 2013, were you paying anything to live there?

18 A. No.

19 Q. Were you paying rent?

20 A. No.

21 Q. Were you paying utilities?

22 A. No.

23 Q. To your knowledge, before your mother had her  
24 stroke, was your sister paying anything to live there?

25 A. Yes. No. I'm sorry, no.

1 MR. PERRI: Your Honor, may I ask the question  
2 again?

3 A. Okay, yeah.

4 THE COURT: Hold on one second, ma'am.

5 You can ask the question again, sir.

6 MR. PERRI: Thank you.

7 Q. To your knowledge, Ms. Johnson, before your mother  
8 had her stroke, was your sister paying anything in order to  
9 live at 301 Coventry Road?

10 A. No.

11 Q. Who has power of attorney over your mother?

12 A. My sister.

13 Q. And while you were living at 301 Coventry Road in  
14 2013, who did you believe was paying the bills for the house?

15 A. My mother.

16 Q. Now, your sister, Tara Johnson, does she work?

17 A. Yes.

18 Q. What does she do?

19 A. She works at a bank. She's a banker.

20 Q. And where is that bank?

21 A. Levittown.

22 Q. What are her hours?

23 A. Daytime hours, 9:00 to 5:00, 9:00 to 6:00.

24 Q. Does she have friends other than the defendant?

25 A. Yes.

1 Q. Does she go out at night?

2 A. Yes.

3 Q. And does the defendant go with her when she goes  
4 out?

5 A. No.

6 Q. What, if anything --

7 MR. ZERNER: Your Honor, I'm going to object  
8 at this time. It sounds like we're talking about a very  
9 wide range of time.

10 THE COURT: The objection is overruled.

11 Mr. Perri, when you ask your question, please  
12 give a time frame question.

13 MR. PERRI: Yes, your Honor.

14 Q. So while you were living with the defendant in 2013  
15 and 2014, when the defendant wasn't going out with your  
16 sister, what, if anything, was he doing instead?

17 A. He would stay home and watch TV.

18 Q. Where would he watch TV?

19 A. In his room.

20 Q. And who did he share the room with?

21 A. My sister Tara.

22 Q. Now, before this case, before 2013, 2014, did you  
23 have any major problems with the defendant?

24 A. No, I didn't.

25 Q. How would you describe your relationship with the

1 defendant before this case?

2 A. Cordial. We spoke. It was friendly.

3 Q. You testified that he no longer is living with you.  
4 When he left, did you owe him any money?

5 A. No, I did not.

6 Q. Have you ever dated the defendant?

7 A. No, I did not.

8 Q. While the defendant was living with you, would he  
9 help out with the expenses in the house?

10 A. Yes.

11 Q. How would he do that?

12 A. Paying bills with my sister.

13 Q. A little bit about the layout of the house I want  
14 to ask you, Ms. Johnson.

15 A. Okay.

16 Q. When you walk in the front door of your home, what  
17 do you see?

18 A. There is a platform and you can go upstairs or  
19 downstairs. It's a high ranch.

20 Q. And where were you, Sherima, Millinia and Mercedes  
21 sleeping?

22 A. Down. Downstairs.

23 Q. What is the layout downstairs? Could you please  
24 describe it?

25 A. It's like a dormitory; a big room with beds.

1 Q. How many beds were down there?

2 A. Two.

3 Q. Did you share beds?

4 A. No.

5 Q. How many people were sleeping in each bed?

6 A. Two and one and one.

7 Q. Was there a television downstairs?

8 A. No.

9 Q. Where was the defendant sleeping when he lived with  
10 you?

11 A. Upstairs.

12 Q. And in the room the defendant slept in was there a  
13 television?

14 A. Yes, there was.

15 Q. Did it have cable?

16 A. Yes, it did.

17 Q. Directing your attention to 2013 in the second half  
18 of 2013, did anyone start watching television in the  
19 defendant's room with him?

20 A. Yes.

21 Q. Who was that?

22 A. Millinia, my daughter.

23 Q. And how often would she watch television with the  
24 defendant?

25 A. Several times a week.

1 Q. And when she was watching television with the  
2 defendant, was there a door to that room?

3 A. Yes.

4 Q. And was it open or closed?

5 A. It started open and then it would be closed.

6 Q. Ms. Johnson, I want to direct your attention to  
7 2013 when Millinia was in sixth grade. Did there come a time  
8 when she participated in a talent show?

9 A. Yes.

10 Q. Where was that talent show?

11 A. It was at her middle school, Howard T. Herber.

12 Q. And did you go to that talent show?

13 A. Yes, I did.

14 Q. And when did that talent show take place?

15 A. In March.

16 Q. What did Millinia do for the talent show?

17 A. She did a dance with her friend Jasmine.

18 Q. Directing your attention to the summer after  
19 Millinia finished sixth grade, so after the talent show but  
20 still in 2013, did there come a time when Millinia started  
21 going on weekend trips?

22 A. Yes.

23 Q. Who would she go with?

24 A. The defendant, Ray Ross.

25 Q. To your knowledge, where would they go?

1 A. To Brooklyn to visit his daughters, to a museum.

2 Q. Did the defendant have a vehicle?

3 A. Yes, he did.

4 Q. What kind of vehicle did he have?

5 A. A pickup.

6 Q. And what color was the pickup?

7 A. White.

8 Q. And how many rows of seats did it have?

9 A. It had two rows of seats.

10 Q. Would you go with them?

11 A. No, I would not.

12 Q. Would your sister Tara go with them?

13 A. No, she would not.

14 Q. Did any of Tara's children or grandchildren go with  
15 them?

16 A. No.

17 Q. Did anyone other than Millinia ever go with the  
18 defendant to Brooklyn from your home?

19 A. No.

20 Q. During this time starting that summer in 2013,  
21 normally what time would the defendant and Millinia return  
22 from Brooklyn?

23 MR. ZERNER: Your Honor, I'm going to object.

24 It sounds like we're talking about multiple occasions.

25 Are we saying they came back the same time every time

1 and this witness knows that?

2 THE COURT: Thank you, Mr. Zerner. Just  
3 please note your objection.

4 Mr. Perri, as I have indicated earlier, when  
5 you ask a question, please frame the question so that it  
6 can be determined as to what time or occurrence you are  
7 speaking of.

8 MR. PERRI: Yes, your Honor.

9 THE COURT: Thank you.

10 Q. So how often would Millinia go with the defendant  
11 during that summer to Brooklyn?

12 A. Two to three times on the weekend a month -- per  
13 month.

14 Q. And when would he go, during the week or on the  
15 weekend?

16 A. Weekend.

17 Q. And on average during that summer when the  
18 defendant and Millinia were going to Brooklyn, would they  
19 spend the night in Brooklyn?

20 A. No.

21 Q. And on average during that summer, approximately  
22 what time of day would they return from Brooklyn?

23 A. At night.

24 Q. Did these trips continue in July and August of that  
25 year of 2013?



1 A. Yes, they did.

2 Q. Did these trips continue when Millinia started  
3 seventh grade?

4 A. Yes.

5 Q. In September of 2013 did the trips continue?

6 A. Yes.

7 Q. Did the frequency of the trips change?

8 A. No.

9 THE COURT: During what time frame, Mr. Perri?

10 MR. PERRI: When she started seventh grade,  
11 your Honor.

12 THE COURT: In September?

13 Q. In September of 2013, Ms. Johnson, did the  
14 frequency of the trips that Millinia was taking with the  
15 defendant to Brooklyn, did that change?

16 A. No.

17 Q. Did you ever give the defendant any money for  
18 taking Millinia to Brooklyn?

19 A. No.

20 Q. Did you ever give Millinia or the defendant any  
21 money to pay for meals while she was with him in Brooklyn?

22 A. No.

23 Q. In October of 2013 were Millinia and the defendant  
24 still taking trips to Brooklyn?

25 A. Yes.

1 Q. Approximately how often were they going in October  
2 of 2013?

3 A. Two to three times a month on weekends.

4 Q. And in November of 2013 while Millinia was in  
5 seventh grade, was the defendant continuing to go with  
6 Millinia to Brooklyn?

7 A. Yes.

8 Q. And when were they going?

9 A. On weekends.

10 Q. And how often were they going in November of 2013?

11 A. Two to three times a month.

12 Q. Did this continue in December of 2013?

13 A. Yes.

14 Q. And how long -- withdrawn.

15 And how often in December of 2013 would the  
16 defendant go with Millinia to Brooklyn?

17 A. Two to three times a month.

18 Q. Other than go on trips to Brooklyn during the  
19 summer of 2013 and during the first half of her seventh grade  
20 year in 2013, what, if anything else, did your daughter and  
21 the defendant do together?

22 A. Watch TV, watch TV, continue to go to Brooklyn, the  
23 museum, have ice cream.

24 Q. Directing your attention to when Millinia was in  
25 seventh grade. At the start of seventh grade did there come

1 a time where she got a new cell phone?

2 A. Yes.

3 Q. And did you buy her the cell phone?

4 A. No, I did not.

5 Q. Were you paying the monthly costs of the cell  
6 phone?

7 A. No, I was not.

8 Q. Now, at the time when Millinia was in seventh  
9 grade, who did you believe was paying for the cell phone each  
10 month then?

11 A. Her father.

12 MR. PERRI: Your Honor, I ask the witness be  
13 shown what's marked as People's 7 for identification.

14 (Handed to witness.)

15 Q. Ms. Johnson, do you recognize those two  
16 photographs?

17 A. Yes, I do.

18 Q. What do you recognize them to be?

19 A. Millinia's cell phone.

20 Q. And is that the cell phone that you were just  
21 discussing that she received in seventh grade?

22 A. Yes.

23 Q. Is that an exact -- is that a fair and accurate  
24 depiction of her cell phone?

25 A. Yes, it is.

1 Q. And is that an exact photostatic copy of the  
2 photograph?

3 A. Yes, it is.

4 Q. Have there been any alterations made to those  
5 photographs?

6 A. No.

7 MR. PERRI: Your Honor, I ask that it be  
8 received into evidence.

9 THE COURT: Could I see them, please?  
10 Counsel, I'm sorry, I thought you asked the  
11 question was it an exact duplicate of a photograph. Is  
12 that what your question was?

13 MR. PERRI: Your Honor, I withdraw that  
14 question. It was not an appropriate question.

15 THE COURT: So, Ms. Johnson, is it your  
16 testimony that this is a fair and accurate  
17 representation through a photograph of your daughter's  
18 phone that she had at the beginning of the seventh  
19 grade?

20 THE WITNESS: Yes.

21 THE COURT: How do you know that?

22 THE WITNESS: This is exactly what it looks  
23 like.

24 THE COURT: Because you have seen it?

25 THE WITNESS: I have seen it.

1 THE COURT: Any other questions, Mr. Perri?

2 MR. PERRI: No, your Honor.

3 THE COURT: You are offering it into evidence,  
4 the photographs?

5 MR. PERRI: Yes, your Honor.

6 THE COURT: Mr. Zerner?

7 MR. ZERNER: If I can see it, please.

8 (Handed to counsel.)

9 MR. ZERNER: If I can have a brief voir dire.

10 THE COURT: You may.

11 VOIR DIRE EXAMINATION

12 BY MR. ZERNER:

13 Q. Ms. Johnson, did you take this photograph?

14 A. No, I did not.

15 Q. Do you know when this photograph was taken?

16 A. I do not.

17 Q. Are there any distinguishing marks on this camera,  
18 I mean this cell phone or camera phone, any personalized  
19 items on it? Maybe some people put, you know, cartoon  
20 character or sports team or anything like that.

21 A. Well, the numbers I have on the box, I believe that  
22 I took that down before.

23 Q. When did you take down this number, ma'am?

24 A. The phone, because I had her phone when I took her  
25 phone.

1 Q. Well, you are saying a number on a box. I don't  
2 see any box depicted in these photos.

3 A. There is a serial number on the back.

4 Q. You know the serial number of your daughter's  
5 phone?

6 A. I have written it down. I don't know what it is.  
7 I can't recall it to you at this particular time.

8 Q. When did you write it down?

9 A. In the past.

10 Q. Do you remember what month and what year?

11 A. 2013.

12 Q. So it seems that the testimony is your daughter had  
13 a cell phone before the phone that we're talking about at the  
14 beginning of her seventh grade year, correct?

15 THE COURT: Mr. Zerner.

16 MR. ZERNER: I'm going to put it together to  
17 the identification issue, your Honor.

18 THE COURT: The question is not permitted on  
19 this particular aspect of your inquiry, which is a voir  
20 dire.

21 MR. ZERNER: That's fine. I object to this  
22 being offered into evidence. It seems clear to me that  
23 there is no distinguishing number or box or time that  
24 she knows that this is the cell phone that Mr. Perri is  
25 asking her about.

1 THE COURT: Thank you.

2 MR. PERRI: Your Honor, the People would offer  
3 it into evidence subject to connection through Detective  
4 Toussaint.

5 THE COURT: The defense objection is overruled  
6 and the photograph is received in evidence.

7 (Whereupon, People's Exhibit 7 was received in  
8 evidence.)

9 COURT OFFICER: People's 7 in evidence.

10 THE COURT: You can proceed, Mr. Perri.

11 MR. PERRI: Thank you, your Honor.

12 DIRECT EXAMINATION (Cont'd)

13 BY MR. PERRI:

14 Q. Now, when Millinia was in seventh grade in 2013 was  
15 her father living with you?

16 A. No.

17 Q. Did he ever live with you?

18 A. In the past.

19 Q. And when did he move out approximately?

20 A. Eight years ago.

21 Q. And how involved was Millinia's father in her life  
22 at that time?

23 A. At that time?

24 Q. Yes, ma'am.

25 THE COURT: At what time?

1 MR. PERRI: Seventh grade. The beginning of  
2 seventh grade.

3 A. Oh, he wasn't in her life much.

4 Q. Did you ever ask the defendant to buy her a cell  
5 phone?

6 A. No.

7 Q. Did you ask the defendant to pay the monthly cost  
8 of her having a cell phone?

9 A. No, I did not.

10 Q. Ms. Johnson, do you remember your daughter  
11 Millinia's 13th birthday?

12 A. Yes.

13 Q. Do you recall anything about what you did to  
14 celebrate her birthday?

15 A. Yes, I do.

16 Q. What do you recall?

17 A. We had a party for her and we had birthday cake.

18 Q. And where was that party?

19 A. In my house.

20 Q. And what time of day was that?

21 A. At night.

22 Q. And who else was at that party?

23 A. My family.

24 Q. Now, directing your attention to the winter of  
25 2014, the second half of Millinia's seventh grade year.



1 After your daughter's birthday did she continue to take trips  
2 each month with the defendant?

3 A. Yes, she did.

4 Q. Was she going to Brooklyn with the defendant in  
5 January?

6 A. Yes.

7 Q. How often was she going?

8 A. Two to three times a month.

9 Q. And did that continue in February?

10 A. Yes.

11 Q. And how often was she going in February?

12 A. Two to three times a month.

13 Q. And in March of her seventh grade year did that  
14 continue?

15 A. Yes, it did.

16 Q. Approximately how often?

17 A. Two to three times a month on weekends.

18 Q. And did that continue in April?

19 A. Yes.

20 Q. And did that continue in May?

21 A. Yes.

22 Q. And did that continue in June?

23 A. Yes.

24 Q. And did the frequency of how often Millinia would  
25 go with the defendant to Brooklyn, did that change during

1 that period at all?

2 A. No.

3 Q. During that time period, the second half of her  
4 seventh grade year in 2014, did anyone else from the house  
5 ever go with the defendant and Millinia to Brooklyn?

6 A. No.

7 Q. Directing your attention to the summer after  
8 Millinia finished seventh grade, the summer of 2014, the  
9 summer before she started eighth grade, at that time could  
10 you please describe your relationship with your daughter  
11 Millinia?

12 A. She started becoming distant and fighting with me  
13 for no apparent reason. Some sort of hostility.

14 Q. What, if anything, were you fighting about?

15 A. When I asked her about going to Brooklyn, she would  
16 say things like are you jealous of me or this sort of thing.

17 Q. And was the defendant present for any of these  
18 arguments?

19 A. No.

20 Well, yes.

21 MR. ZERNER: Objection, your Honor.

22 THE COURT: Hold on, Ms. Johnson.

23 The objection is overruled. The defendant  
24 [sic] answered. Next question.

25 Q. So to clarify, Ms. Johnson --

1 THE COURT: No, the objection is sustained.  
2 The witness answered the question. Next question,  
3 please.

4 MR. PERRI: Your Honor, may we approach?

5 THE COURT: No, sir. Ask your next question.

6 MR. PERRI: I apologize.

7 Q. What, if anything -- I'm sorry, what, if anything,  
8 did the defendant say during any this argument?

9 A. The defendant had said --

10 MR. ZERNER: Objection.

11 THE COURT: Basis, Mr. Zerner?

12 MR. ZERNER: There are several bases, your  
13 Honor. Basis number one is the defendant -- the witness  
14 answered.

15 THE COURT: Excuse me one second, Mr. Zerner.

16 Ladies and gentlemen, we're going to take a  
17 five-minute break to allow you to stretch your legs and  
18 use the facilities.

19 (Whereupon, the jury exited the courtroom.)

20 THE COURT: Ms. Johnson, I'm going to excuse  
21 you for a few minutes, okay. So you can step outside  
22 but you can't talk to anybody about your testimony,  
23 okay.

24 THE WITNESS: Okay.

25 THE COURT: Just go outside and relax for a

1           few minutes. We'll call you right back in.

2                       (Whereupon, the witness exited the courtroom.)

3           THE COURT: With regard to the defense  
4           counsel's objection, Mr. Perri, you are stuck with your  
5           witness's answer, okay. And one of the basis for that  
6           objection was that it was assuming facts not in evidence  
7           because the witness answered no and yes, so you then  
8           talked about your question included the defendant being  
9           present for an argument.

10           MR. PERRI: Well, your Honor, just the fact  
11           that the witness corrected her answer while answering  
12           the question without any prompting from the People, that  
13           she changed it from no to yes while she was answering  
14           and so then the final answer she gave was that the  
15           defendant was present.

16           THE COURT: She gave two answers to your  
17           question, okay. Your follow-up question presumed that  
18           the defendant was present at an argument. If there is a  
19           question about your witness's answer, then just follow  
20           it up with a clarifying question, okay.

21           MR. PERRI: Yes, your Honor.

22           THE COURT: Before you go on to another  
23           question that presumes a fact.

24           MR. ZERNER: Thank you, your Honor. That was  
25           one of my points.

1                   The other question I have is all of a sudden  
2                   there's a woman sitting in the back row. Is she a  
3                   member of the district attorney's staff?

4                   THE COURT: I believe it may be the advocate.  
5                   The blonde haired lady in the blue blouse?

6                   MR. PERRI: Yes, your Honor.

7                   THE COURT: Is that the advocate?

8                   MR. PERRI: Yes, your Honor.

9                   MR. ZERNER: I would like her to be instructed  
10                  not to be speaking with the witness right now in the  
11                  hallway and not to be allowed to talk to her about her  
12                  testimony in any way, shape or form. Obviously, I know  
13                  Mr. Perri knows about not being allowed to talk to his  
14                  witness during the course of her testimony. I'm afraid  
15                  right now there is a conversation going on right now on  
16                  the other side of the wall between a member of the  
17                  district attorney's office and a witness.

18                  THE COURT: She's not a member of the district  
19                  attorney's office, but I understand your point. I have  
20                  already instructed the witness she is not to have any  
21                  conversation with anyone regarding her testimony, but  
22                  the Court will caution the child advocate that she's  
23                  acting in an official capacity and she should not have  
24                  any conversations with anyone who is testifying.

25                  MR. ZERNER: I have the utmost respect for the

1 child advocates. When I was in the DA's office they  
2 were employees of the district attorney's office. I  
3 don't know if there is any difference in this county at  
4 this time.

5 MR. PERRI: She is an employee of the district  
6 attorney's office. She's a crime victim advocate, not a  
7 child advocate. We are not on cross yet. This is still  
8 direct that if we were to break in testimony, the  
9 admonitions of not being able to talk to your witness  
10 take effect at the time cross begins after direct is  
11 concluded.

12 THE COURT: Thank you. The Court has some  
13 discretion and authority with regard to who is going to  
14 speak to a witness.

15 MR. ZERNER: I would urge your Honor to  
16 exercise that where it's --

17 THE COURT: Thank you, Mr. Zerner, I have your  
18 point. Thank you.

19 So with regard to the objection, the Court has  
20 sustained the objection. You can start anew, Mr. Perri,  
21 with your questioning of the witness.

22 We'll bring in the witness now and then we'll  
23 bring in the jury.

24 MR. PERRI: Your Honor, I'm sorry, I just want  
25 to put one thing on the record and request of the Court

1 to admonish defense counsel about making either sounds  
2 or some form of communication or giving looks in  
3 response to every question the witness is giving to the  
4 jury, turning and facing the jury as the witness is  
5 giving her testimony. If I'm incorrect, I apologize,  
6 but from where I was standing I believe that was taking  
7 place.

8 THE COURT: Let me just say this with regard  
9 to counsel, and that is is that I expect both sides to  
10 conduct themselves with the utmost professionalism as  
11 advocates in this particular proceeding and the Court  
12 has the utmost confidence that both sides will conduct  
13 themselves in accord with that obligation as officers of  
14 the Court.

15 MR. ZERNER: If I may very briefly respond,  
16 your Honor, for the record.

17 THE COURT: No, sir. He was speculating  
18 because he didn't know if he was right or he was wrong.  
19 I didn't see anything, so there is no finding by the  
20 Court and -- hold it, Mr. Zerner, please. All I'm  
21 saying is to both counsel that I expect and am confident  
22 that you will conduct yourselves in a professional  
23 manner.

24 MR. ZERNER: Thank you, your Honor. What I  
25 was looking for was the witness looking at the woman in

1 the back of the room. Sometimes in doing that I'm  
2 turning my head like in a tennis match and I'm looking  
3 at Mr. Perri and I'm looking at the jurors and then back  
4 at the witness and back and forth and back and forth.

5 THE COURT: Thank you, Mr. Zerner.

6 Ma'am, could I have your name, please?

7 MS. TERINO: Cara Terino.

8 THE COURT: Do you have any official role in  
9 this proceeding?

10 MS. TERINO: Official role? I'm the crime  
11 victim advocate in the Special Victim's Bureau.

12 THE COURT: And you were here before we broke;  
13 is that correct?

14 MS. TERINO: Yes.

15 THE COURT: And you heard me admonish the  
16 witness that she shouldn't have any conversation with  
17 anyone about the trial; is that correct?

18 MS. TERINO: Yes.

19 THE COURT: Thank you, ma'am.

20 MS. TERINO: You're welcome.

21 (Whereupon, the witness returned to the  
22 witness stand and the jury entered the courtroom.)

23 THE CLERK: Let the record reflect the  
24 presence of the jury.

25 People ready.



1 MR. PERRI: Yes, your Honor.

2 THE CLERK: Is the defense ready?

3 MR. ZERNER: We are, thank you.

4 THE COURT: Ladies and gentlemen of the jury,  
5 before we broke there was an objection. That objection  
6 is sustained and Mr. Perri will ask his next question.

7 BY MR. PERRI:

8 Q. Ms. Johnson, did you have multiple arguments with  
9 your daughter that summer?

10 A. Yes, I did.

11 Q. And for any of those arguments was the defendant  
12 present?

13 A. Yes.

14 Q. And when the defendant was present, what, if  
15 anything, would you say to Millinia in front of him?

16 A. I told Millinia that she was not allowed to go in  
17 his room and to not be around him at all and he said that  
18 don't worry about what she says, I'll take care of her.

19 Q. Who is he speaking to at that time?

20 A. He was speaking to Millinia.

21 Q. Now, in July of 2014 what, if any, rules or  
22 decisions had you made regarding where your daughter could  
23 go?

24 A. I said she cannot go.

25 Q. Where could she not go?

1 A. With the defendant.

2 Q. How did she react to that decision?

3 A. She was upset by it.

4 Q. Ms. Johnson, are you familiar with Hempstead Lake  
5 State Park?

6 A. Yes, I am.

7 Q. In July of 2014 did there come a time when you  
8 observed the defendant and your daughter together in the  
9 park?

10 A. Yes, I did.

11 MR. ZERNER: Objection; leading.

12 THE COURT: Overruled.

13 Q. Could you please explain what you observed?

14 A. My daughter went to the park and I observed the  
15 defendant in a white pickup truck at the entrance of the park  
16 when my daughter was going to the park with her cousins and  
17 my daughters.

18 Q. What, if anything, happened when the defendant was  
19 there at the entrance to the park?

20 A. He was talking to her.

21 Q. And was this after you had told -- sorry,  
22 withdrawn.

23 Was this after the argument you had just described?

24 A. Yes.

25 Q. Now, directing your attention to August of 2014,

1 the next month, did there come a time when Millinia was again  
2 in the defendant's room?

3 MR. ZERNER: Objection; leading.

4 THE COURT: Sustained.

5 Q. In August of 2014, did there ever come a time when  
6 you went to the defendant's room?

7 A. Yes.

8 Q. What, if anything, did you observe when you went to  
9 the defendant's room in August of 2014?

10 A. I knocked on the door. It was closed and I opened  
11 the door and I observed Millinia sitting on the bed in the  
12 defendant's room.

13 Q. And who else was present in the room?

14 MR. ZERNER: Objection; leading.

15 THE COURT: If anyone.

16 Q. Who, if anyone, was present in the room?

17 A. No one but the two people.

18 Q. Who were the two people?

19 MR. ZERNER: You know, objection. It assumes  
20 facts not in evidence. If it's only Millinia in the  
21 room, then that's no one and then all of a sudden it's  
22 two people.

23 THE COURT: Thank you, Mr. Zerner.

24 The objection is overruled. You can answer  
25 the question. Do you know who the two people in the

1 room were?

2 THE WITNESS: Yes.

3 Q. Who were they?

4 A. The defendant, Ray Ross and my daughter Millinia.

5 Q. And where was the defendant when you entered the  
6 room?

7 A. In the bed. On the bed.

8 Q. And where was Millinia?

9 A. On the bed.

10 Q. And what, if anything, happened after you went into  
11 the room?

12 A. I told her to get out.

13 Q. And what happened after you told her to get out?

14 A. Then she came out.

15 Q. And what, if anything, else did you do that evening  
16 while you were in the room?

17 A. I told her not to come back in here.

18 Q. Now, soon after finding Millinia with the  
19 defendant, did there come a time when you came into  
20 possession of Millinia's cell phone?

21 A. Yes, I did.

22 Q. How did you get possession of Millinia's cell  
23 phone?

24 A. I took it from under her pillow.

25 Q. And did she give you the phone willingly?

1 A. No, she did not.

2 Q. Where was Millinia when you took the phone?

3 A. Asleep.

4 Q. What, if anything, did you do with the phone after  
5 you took it?

6 A. I looked into it.

7 Q. And what, if anything, did you observe on the cell  
8 phone?

9 A. I observed text messages between Ray Ross and my  
10 daughter Millinia.

11 MR. PERRI: Your Honor, I ask that this be  
12 marked as People's 10 for identification?

13 THE COURT: Please.

14 (Whereupon, People's Exhibit 10 was marked for  
15 identification, only.)

16 COURT OFFICER: People's 10 marked for ID.

17 MR. PERRI: I ask it be shown to the witness,  
18 your Honor.

19 THE COURT: Please.

20 (Handed to witness.)

21 Q. Ms. Johnson, do you recognize People's 10?

22 A. Yes, I do.

23 Q. What do you recognize it to be?

24 A. Ray Ross' cell phone -- Millinia's cell phone. I  
25 see his number up there.

1 Q. Could you please be more specific, what from  
2 Millinia's cell phone?

3 THE COURT: Ma'am, I'm just going to ask you  
4 to look through the exhibit first. Take your time and  
5 look through the exhibit.

6 THE WITNESS: Okay.

7 A. These are text messages between Ray and my  
8 daughter.

9 Q. Ms. Johnson --

10 A. Inappropriate.

11 Q. Ms. Johnson, are those photographs of the text  
12 messages you observed on Millinia's phone when you took it  
13 from her?

14 MR. ZERNER: Objection; leading.

15 THE COURT: Overruled.

16 A. Yes.

17 Q. Are they fair and accurate depictions of the text  
18 messages you observed on Millinia's phone?

19 A. Yes.

20 Q. Ms. Johnson, have you had a prior occasion to look  
21 through that packet?

22 A. Yes.

23 Q. And are there any markings on the back of that  
24 packet that you recognize?

25 MR. ZERNER: Objection; leading.

1 THE COURT: Overruled.

2 A. My signature.

3 Q. And any other markings?

4 MR. ZERNER: Your Honor.

5 THE COURT: Hold it, Mr. Zerner.

6 Hold it, Mr. Perri. With regard to your  
7 question, once again, please frame the question. Any  
8 other markings is a general question without a  
9 direction.

10 Q. Are there any other markings on the back of the  
11 packet that you recognize?

12 A. Yes.

13 Q. What do you recognize?

14 A. Millinia's signature.

15 Q. And when did you place your signature on the back  
16 of that packet?

17 A. Six days after Millinia signed her name.

18 Q. And what did you do prior to putting the signature  
19 on the back of that packet?

20 A. I observed the packet.

21 Q. And have there been any alterations made to that  
22 packet from the time you last observed it?

23 A. No.

24 MR. PERRI: Your Honor, I ask that that be  
25 received in evidence subject to connection through

1 Millinia Johnson.

2 THE COURT: Can the adversary counsel please  
3 see it.

4 (Handed to counsel.)

5 MR. ZERNER: If I can have a brief voir dire,  
6 please?

7 THE COURT: You may.

8 MR. ZERNER: Thank you, your Honor.

9 VOIR DIRE EXAMINATION

10 BY MR. ZERNER:

11 Q. Ms. Johnson, today is February 9, 2016, correct?

12 A. Yes.

13 Q. You came to the DA's office two days ago on Sunday,  
14 February 7, 2016?

15 A. Yes, I did.

16 Q. And you signed the back of this packet, correct?

17 A. Yes, I did.

18 Q. So before February 7, 2016 had you ever seen this  
19 packet?

20 THE COURT: Did you hear the question, ma'am?

21 A. Repeat the question.

22 Q. Before February 7, 2016 had you ever seen this  
23 packet?

24 A. No.

25 Q. On February 7, 2016 you met with Mr. Perri?



1 A. Yes, I did.

2 Q. And you did that in his office, the district  
3 attorney's office across the way over here?

4 A. Yes.

5 Q. And he told you this was a packet including text  
6 messages?

7 MR. PERRI: Objection, your Honor. This is  
8 cross-examination.

9 THE COURT: Overruled.

10 MR. ZERNER: Thank you, your Honor.

11 Q. Please answer the question.

12 A. Say the question again.

13 Q. Two days ago when you met with Mr. Perri in his  
14 office, in the district attorney's office, he gave you this  
15 packet and he said to you these are text messages from a cell  
16 phone, correct?

17 A. Yes.

18 Q. And he told you to sign the back of it, right?

19 THE COURT: Mr. Zerner, I'm going to ask you  
20 with regard to the inflection in your voice to remain  
21 steady.

22 MR. ZERNER: I apologize, your Honor, it seems  
23 she might not have heard me the first couple of times so  
24 I wanted to project more.

25 Q. Did you hear the question, ma'am?

1           A.    Yes, I observed the text messages that I signed the  
2 back of the pamphlet.

3           Q.    Mr. Perri told you these were text messages and he  
4 said sign the back, right?

5           A.    And I observed them and those are the same text  
6 messages that I witnessed earlier on the phone.

7                   MR. ZERNER: Your Honor, objection. It is not  
8 responsive.

9                   THE COURT: Overruled.

10          Q.    Did you prepare this packet of photos, ma'am?

11          A.    No.

12                   MR. ZERNER: If I may, your Honor.

13          Q.    Before your daughter got a cell phone from Ray  
14 Ross, she had a prior cell phone, correct?

15                   THE COURT: Hold it. Mr. Zerner, this is voir  
16 dire, so couch your inquiry as to the exhibit that's in  
17 front of you.

18                   MR. ZERNER: I'm looking to see whether she  
19 can compare and contrast cell phone one and cell phone  
20 two. I'm not sure if she can.

21                   THE COURT: No, sir, we're talking about this  
22 particular exhibit, so couch your question with regard  
23 to this exhibit and how the foundation has been laid by  
24 the People.

25          Q.    Page one of this packet of materials at the top

1 says Ray Ray on it, correct?

2 A. Uh-huh.

3 Q. Yes or no, ma'am?

4 A. Yes.

5 Q. And you saw that when Mr. Perri handed you this  
6 packet of papers on Sunday, right?

7 A. Yes.

8 Q. So this document that was not prepared by you shows  
9 that it's Ray Ray's cell phone, right?

10 A. Yes.

11 Q. But you are telling us now it's Millinia's cell  
12 phone. How do you know?

13 A. It has Ray's name on it because that's the person  
14 that's corresponding with the Emails.

15 Q. How do you know?

16 A. Because you get the other person's number comes up  
17 when you are talking to them.

18 Q. Well, you said these are Emails or texts, ma'am?

19 A. Text messages.

20 Q. Are you sure?

21 A. Absolutely.

22 Q. And you are sure who the sender was and who the  
23 recipient was?

24 A. Yes.

25 MR. PERRI: Objection.

1 THE COURT: The objection is sustained.

2 Ladies and gentlemen, you can disregard the  
3 question and the answer.

4 MR. ZERNER: Your Honor, I object to these  
5 being offered. In fact, they are only being offered  
6 subject to connection, but I believe they should not be  
7 received in evidence.

8 THE COURT: Thank you, Mr. Zerner. The  
9 exhibit is received in evidence subject to connection.

10 (Whereupon, People's Exhibit 10 was received  
11 in evidence.)

12 COURT OFFICER: People's 10 in evidence.

13 MR. ZERNER: Subject to connection, your  
14 Honor?

15 THE COURT: Yes, sir.

16 MR. ZERNER: I want to make sure.

17 THE COURT: Thank you.

18 (Whereupon, a cell phone rang.)

19 THE COURT: Ladies and gentlemen, that's just  
20 a reminder that you should turn off all telephones.

21 A JUROR: Your Honor, I thought it was off. I  
22 apologize.

23 THE COURT: I'm not directing my comment to  
24 any particular juror.

25

1 DIRECT EXAMINATION (Cont'd)

2 BY MR. PERRI:

3 Q. Ms. Johnson, what did you do after viewing the text  
4 messages on Millinia's cell phone?

5 A. I went to the Safe Center. Actually I went to the  
6 DA Warren Thurer's office. Am I pronouncing it right?

7 THE COURT: So your answer is that you went to  
8 Warren Thurer?

9 THE WITNESS: Yeah.

10 Q. Where does Warren Thurer work?

11 A. 262 Old Country Road.

12 THE COURT: I'm sorry, Mr. Perri, was Warren  
13 Thurer a name of a person?

14 MR. PERRI: Warren Thurer.

15 THE COURT: So just clarify the answer,  
16 Mr. Perri, would you please, by a follow-up question.

17 MR. PERRI: Yes, your Honor.

18 Q. What, if any, steps did you take to involve law  
19 enforcement after you saw the text messages on Millinia's  
20 cell phone?

21 A. I came to the DA's office.

22 Q. Did you meet with anyone when you came to the  
23 district attorney's office?

24 A. Yes, I did.

25 Q. Who did you meet with?

1 A. Warren Thurer.

2 THE COURT: A person with the name of Warren  
3 Thurer?

4 THE WITNESS: Yes.

5 THE COURT: As you understand that name to be.

6 THE WITNESS: Yes.

7 THE COURT: Next question.

8 Q. And what did you do when you were at the district  
9 attorney's office?

10 A. I filed a complaint about what I found on the text  
11 message and that there was inappropriate relations between  
12 the defendant and my daughter.

13 (Whereupon, a cell phone rang.)

14 THE COURT: Another reminder we all should  
15 have our phones on mute or off quite frankly.

16 Next question, Mr. Perri.

17 MR. PERRI: Yes, your Honor.

18 Q. At the time you went to go see Warren Thurer at the  
19 district attorney's office, was the defendant still living  
20 with you?

21 A. Yes.

22 Q. For the rest of August of 2014 did you allow  
23 Millinia to be alone with the defendant?

24 A. No, I did not.

25 Q. Did Millinia have a cell phone for the rest of

1 August of 2014?

2 A. No, she did not.

3 Q. In September when she started eighth grade in  
4 middle school, did she have a cell phone?

5 A. No, she did not.

6 Q. And in September of 2014 when she started the  
7 eighth grade, was she allowed to be alone with the defendant?

8 A. No, she was not.

9 Q. In October of 2014 did there come a time where you  
10 became aware that Millinia had a cell phone?

11 MR. ZERNER: Objection; leading.

12 THE COURT: Overruled.

13 A. Yes.

14 Q. And how did you discover that Millinia had a cell  
15 phone at that time?

16 A. Millinia called me on that cell phone and I had  
17 confiscated the first one.

18 Q. And when Millinia called you, did you recognize the  
19 number?

20 A. Yes, I did.

21 Q. And what did you do after Millinia called you?

22 A. I took the phone from her.

23 Q. And what, if anything, did you do with the phone  
24 after you took it from her?

25 A. I took it from her and -- I took the phone from her

1 and then I gave it to the detective.

2 Q. At that time?

3 A. Oh, at that time?

4 THE COURT: Hold on one second.

5 (Whereupon, a cell phone rang.)

6 THE COURT: Next question, Mr. Perri.

7 Q. Immediately after --

8 A JUROR: I'm trying, your Honor.

9 THE COURT: If it happens again, we'll secure  
10 it for you.

11 A JUROR: Do you want to secure it now?

12 THE COURT: Phil, can you take the phone or  
13 one of the officers, I'm sorry?

14 A JUROR: Thank you.

15 THE COURT: Okay, Mr. Perri, go ahead.

16 MR. PERRI: Your Honor, I ask the witness be  
17 shown People's 6 marked for identification.

18 (Handed to witness.)

19 Q. Ms. Johnson, do you recognize what's depicted in  
20 that exhibit?

21 A. Yes.

22 Q. And what do you recognize it to be?

23 A. Millinia's cell phone.

24 Q. Is this the first or the second cell phone?

25 A. This is the second cell phone.



1 Q. And is that an exact -- is it a fair and accurate  
2 depiction of that second cell phone?

3 A. Yes, it is.

4 Q. Is that the cell phone that you took from Millinia?

5 A. Yes, it is.

6 MR. PERRI: Your Honor, I ask that that be  
7 received into evidence.

8 THE COURT: Please show adversary counsel.

9 MR. PERRI: Your Honor, I'm asking it be  
10 received into evidence subject to connection with  
11 Detective Toussaint.

12 (Handed to counsel.)

13 MR. ZERNER: Brief voir dire, your Honor?

14 THE COURT: You may.

15 THE WITNESS: Excuse me, Judge, there was a  
16 previous question that was asked.

17 THE COURT: Okay, hold on, ma'am. Mr. Zerner  
18 is going to ask some questions right now.

19 VOIR DIRE EXAMINATION

20 BY MR. ZERNER:

21 Q. Ms. Johnson, you were just shown a two-page  
22 document, correct?

23 A. Yes.

24 Q. And you're telling us that this is Millinia's cell  
25 phone?

1 A. Yes.

2 Q. How do you know this to be Millinia's cell phone?

3 A. That's the cell phone that I took from her.

4 Q. Are there any markings on the phone to tell you  
5 that this phone was Millinia's and not somebody else's?

6 Did you hear me, ma'am?

7 A. I heard you.

8 Q. Please answer the question then.

9 A. That's Millinia's cell phone. That was the phone  
10 that I picked up and I took from her.

11 Q. You are aware many cell phones look alike, correct?

12 A. Yes.

13 Q. You have been in cell phone stores and you have  
14 seen multiple phones?

15 A. Yes.

16 Q. So how do you know that this phone in this  
17 photograph belonged to your daughter?

18 A. The numbers on the back, I always look at them.

19 Q. So when you say the numbers on the back, the back  
20 of the cell phone was removed and it's now in two pieces,  
21 correct?

22 A. Yes.

23 Q. And there is a serial number inside that is 15  
24 digits, correct?

25 A. Uh-huh.

1 Q. Yes?

2 A. Yes.

3 Q. You have to say yes or no for the reporter.

4 A. Yes.

5 Q. So you memorized that 15 digit number?

6 A. That phone -- yes, I did.

7 Q. Could you tell us what that number is right now,  
8 ma'am?

9 A. I couldn't tell you off my mind, no.

10 Q. You just told us you memorized the number.

11 A. Well, I can't recant it now. I don't remember it.

12 Q. When did you memorize the number?

13 A. Before I handed it in when I had it in my  
14 possession.

15 Q. In 2014?

16 A. Yes.

17 Q. So was this photograph taken in 2014?

18 A. I don't know.

19 Q. You didn't take this photograph, right?

20 A. It was taken.

21 Q. Did you take this photograph?

22 A. I did not take that photograph, no.

23 Q. And there are no distinguishing marks on this phone  
24 as far as a TV character or sports team or anything like that  
25 that would indicate to you this was Millinia's cell phone,

1 correct?

2 A. No.

3 Q. The only way that you know this to be your  
4 daughter's cell phone is that you claim that you memorized  
5 the serial number?

6 A. Yes.

7 Q. And the first time you saw this cell phone was when  
8 you took it out from under her pillow in October of 2014?

9 A. I didn't take that phone out from under her pillow.

10 Q. Did you memorize the number of the cell phone when  
11 you did take it from under the pillow previously?

12 MR. PERRI: Objection.

13 THE COURT: Overruled.

14 Q. Please answer the question.

15 A. Yes.

16 MR. ZERNER: If I can see People's 7, please.

17 THE COURT: Mr. Zerner, this is voir dire.

18 MR. ZERNER: Right, but it's voir dire about  
19 these two cell phones and I think they look similar and  
20 I would like to question the witness about it before we  
21 rule on what the story is on this exhibit number.

22 THE COURT: I'll rule on it, not we.

23 MR. ZERNER: Yes, of course.

24 THE COURT: Just follow up your questions with  
25 regard to this particular exhibit, sir.

1 Q. What brand of cell phone is this?

2 A. Samsung.

3 Q. What brand of cell phone was the prior one?

4 A. Samsung.

5 Q. Were the two phones similar?

6 A. Yes.

7 Q. Did you memorize both serial numbers?

8 A. Yes, I did.

9 Q. Tell us the serial numbers.

10 A. I don't know them offhand.

11 Q. Did you write down the serial numbers anywhere?

12 A. Yes, I did.

13 Q. Where did you write them down?

14 A. I have them somewhere. I don't have them on me.

15 Q. Did you provide that document to the district  
16 attorney?

17 Did you hear me, ma'am?

18 A. Yes.

19 Q. Did you provide that document to the district  
20 attorney's office?

21 A. No, I did not.

22 Q. Did you give it to Warren Thurer back in August of  
23 2014?

24 MR. PERRI: Objection. This is far beyond  
25 voir dire.

1 THE COURT: Overruled.

2 Q. Please answer the question.

3 A. No.

4 Q. Did you give it to anybody in October of 2014?

5 A. Give what to anyone?

6 Q. The serial numbers that you had documented on a  
7 piece of paper.

8 A. No.

9 Q. Do you commonly memorize 15 digit numbers?

10 THE COURT: Next question.

11 MR. PERRI: Objection.

12 THE COURT: Mr. Zerner.

13 MR. ZERNER: Your Honor, I object to this  
14 being offered into evidence.

15 THE COURT: Thank you. The exhibit is  
16 received in evidence subject to connection by Detective  
17 Toussaint.

18 (Whereupon, People's Exhibit 6 was received in  
19 evidence.)

20 COURT OFFICER: People's 6 in evidence.

21 THE COURT: Mr. Perri, next question.

22 MR. PERRI: Yes, your Honor.

23 DIRECT EXAMINATION (Cont'd)

24 BY MR. PERRI:

25 Q. Ms. Johnson.

1 A. Yes.

2 Q. After you took possession of that cell phone from  
3 your daughter Millinia, what, if anything, did you personally  
4 do with that cell phone when you took it into your  
5 possession?

6 A. I -- the steps I took was I went to the Safe Center  
7 and I also went to Family Court to get an order of  
8 protection.

9 Q. And before you did that -- I want to back you up a  
10 little bit. I'm asking what, if anything, did you do with  
11 the phone itself after you took it from Millinia?

12 A. I had Millinia unlock the phone to show --

13 Q. Was the phone locked when you received it?

14 A. Yes, it was.

15 MR. ZERNER: Objection; leading.

16 THE COURT: Overruled.

17 A. Yes, it was locked.

18 Q. When you found the phone was locked, what, if  
19 anything, did you do after you saw it was locked?

20 MR. ZERNER: Objection; asked and answered.

21 THE COURT: Overruled.

22 A. I had her unlock the phone and I read the text  
23 messages.

24 Q. And what, if anything, did you discover when you  
25 looked through the text messages?

1 A. It was inappropriate text messages.

2 Q. And were you able to determine the identity of who  
3 was sending the text messages?

4 A. Yes, I was.

5 Q. Who did you believe was sending the text messages?

6 A. Ray Ross, the defendant.

7 MR. PERRI: Your Honor, I'm asking this be  
8 marked as People's 12 [sic] for identification.

9 (Whereupon, People's Exhibit 11 was marked for  
10 identification, only.)

11 COURT OFFICER: People's 11 marked for ID.

12 MR. PERRI: I ask it be shown to the witness,  
13 your Honor.

14 (Handed to witness.)

15 Q. Ms. Johnson, please look through that packet.

16 Ms. Johnson, do you recognize the photographs  
17 contained in that packet?

18 A. Yes, I do.

19 Q. What do you recognize them to be?

20 A. Text messages from Ray Ross, the defendant, to my  
21 daughter.

22 Q. Where did those text messages appear? Where did  
23 you see them?

24 A. On her phone.

25 Q. And, Ms. Johnson, have you seen that packet



1 previously?

2 A. Yes.

3 Q. And I'm going to ask you to look on the back. Do  
4 you recognize any markings on the back of that document?

5 A. Yes, I do.

6 Q. What do you recognize?

7 A. My signature and Millinia's signature.

8 Q. Did you place that signature on the back of the  
9 document after you reviewed it?

10 A. Yes, I did.

11 Q. Have there been any alterations to the document  
12 since you reviewed it?

13 A. No.

14 Q. Are those fair and accurate depictions of the text  
15 messages you observed on Millinia's cell phone after you took  
16 it from her?

17 A. Yes.

18 MR. PERRI: Your Honor, I ask that be received  
19 into evidence subject to connection through Millinia  
20 Johnson.

21 THE COURT: Ma'am, when you say it's  
22 Millinia's phone, what phone are you talking about?

23 THE WITNESS: This is the second phone that  
24 she had in her possession and she called me on that  
25 phone. After I took the first phone away, a second

1 phone appeared and she had called me on it and that's  
2 how I knew there was another phone and I demanded that  
3 Millinia unlock -- I took the phone and demanded her to  
4 unlock the pass code and then I proceeded to read  
5 through it.

6 THE COURT: And is it your testimony that the  
7 exhibit contains the texts that you read from the phone  
8 that you took from Millinia?

9 THE WITNESS: Yes.

10 THE COURT: Please show that to adversary  
11 counsel.

12 (Handed to counsel.)

13 MR. ZERNER: If I can have a brief voir dire,  
14 your Honor?

15 THE COURT: You may, sir.

16 VOIR DIRE EXAMINATION

17 BY MR. ZERNER:

18 Q. Ms. Johnson, so at the same time when you were here  
19 on Sunday talking to ADA Perri looking at the other text  
20 message packet, you were looking at this text message packet?

21 A. Yes.

22 Q. And how did you know that this was from the second  
23 cell phone?

24 A. I viewed what was on the first one and on the  
25 second one.

1 Q. Well, you were shown these documents on Sunday,  
2 right?

3 A. Yes.

4 Q. Had you ever seen the documents as documents  
5 before?

6 A. No.

7 Q. So the first time you saw them was approximately 18  
8 months after you took this phone away from your daughter in  
9 October of 2014?

10 A. Say that again.

11 Q. You have never seen the text messages on paper  
12 before, correct?

13 THE COURT: Before Sunday; is that correct?

14 THE WITNESS: Before Sunday?

15 THE COURT: Yeah.

16 THE WITNESS: I saw them Sunday.

17 Q. Right. And prior to Sunday you had never seen them  
18 in paper form, correct?

19 A. I did.

20 Q. When did you see these papers before Sunday,  
21 February 7, 2016?

22 A. Grand jury? I can't recount exactly what day it  
23 was, but.

24 THE COURT: Ms. Johnson, did you ever see  
25 copies of the text messages that we're speaking about

1 before Sunday?

2 THE WITNESS: No.

3 THE COURT: So this packet that's been marked  
4 as People's Exhibit number 11 for ID, is that the first  
5 time you saw --

6 THE WITNESS: Yes.

7 THE COURT: Hold on.

8 Is that the first time you saw copies of text  
9 messages from either the first phone or the second  
10 phone?

11 THE WITNESS: Yes.

12 THE COURT: Go ahead, Mr. Zerner.

13 MR. ZERNER: Thank you.

14 Q. So on Sunday when ADA Perri showed you this packet  
15 of papers, did you also have the physical phone with you?

16 A. In my possession?

17 Q. Was it in the room with you and ADA Perri on  
18 Sunday?

19 A. I wouldn't know that. I didn't have it on my  
20 person.

21 Q. Well, the phone was given to the police in October  
22 of 2014, right?

23 A. Yes.

24 Q. You gave it to Warren Thurer?

25 A. No.

1 Q. Who did you give it to in October of 2014?

2 A. Detective Toussaint.

3 Q. So Detective Toussaint took that phone, right?

4 A. Yes.

5 Q. And then did you see the phone again ever?

6 A. No.

7 Q. The phone?

8 A. No.

9 Q. And this is a Samsung phone that looks like a lot  
10 of other Samsung phones, correct?

11 A. I suppose.

12 Q. And there is no serial number on this photograph of  
13 the phone for you to compare it to your memory of the  
14 memorized 15 digit number, correct?

15 A. No.

16 Q. So ADA Perri showed you this packet of documents  
17 and said sign the back, correct?

18 A. I viewed them and I looked at them.

19 MR. PERRI: Objection.

20 THE COURT: Overruled. Your witness answered  
21 she viewed them.

22 Q. Did you look through each and every paper when you  
23 were with ADA Perri on Sunday?

24 A. Yes, I did.

25 Q. Did you initial each page as you went through?

1 A. No.

2 Q. In fact, when you were given this packet of papers  
3 on Sunday, February 7, you already saw your daughter's  
4 signature from February 1, 2016, correct?

5 A. Yes.

6 Q. You are familiar with your daughter's signature,  
7 right?

8 A. Yes.

9 Q. And you were shown a blank piece of paper, but it  
10 wasn't blank, it already had your daughter's signature and  
11 the date of 2/1/16, correct?

12 A. Yes.

13 Q. Were you with her when she signed that?

14 Did you hear me, ma'am?

15 A. Yes.

16 THE COURT: Mr. Zerner, please, if there is  
17 some prompting that's needed, I'll prompt the witness.

18 MR. ZERNER: Sorry, your Honor, of course.

19 THE COURT: All right, ma'am, did you hear the  
20 question?

21 THE WITNESS: So was I with her?

22 THE COURT: Were you present at the time that  
23 Millinia signed that exhibit?

24 THE WITNESS: Yes.

25 THE COURT: On the 1st of February?

1 THE WITNESS: Yes.

2 THE COURT: Next question.

3 Q. Were you asked to sign it on February 1st?

4 A. No.

5 Q. But you were in the room with her when she signed  
6 it?

7 A. Yes.

8 Q. That was the same situation for the other  
9 documents, Exhibit 6, right?

10 THE COURT: I think it would be Exhibit 10.

11 MR. ZERNER: Thank you, your Honor.

12 Q. Same situation for that?

13 A. Yes.

14 Q. So she had already signed it six days earlier, but  
15 you were in the room when it was signed on February 1st?

16 A. Yes.

17 Q. But you weren't asked to sign it back on February  
18 1st?

19 A. No.

20 MR. ZERNER: I object, your Honor.

21 THE COURT: The objection is overruled. The  
22 exhibit is received in evidence as People's 11 subject  
23 to connection by Detective Toussaint.

24 (Whereupon, People's Exhibit 11 was received  
25 in evidence.)

1 COURT OFFICER: People's 11 in evidence.

2

3 DIRECT EXAMINATION (Cont'd)

4 BY MR. PERRI:

5 Q. After you viewed the text messages on Millinia's  
6 second cell phone, did there come a time where you went to  
7 Family Court?

8 A. Yes.

9 Q. And why did you go to Family Court?

10 A. I went to Family Court to get an order of  
11 protection.

12 Q. And did you, in fact, get an order of protection?

13 A. Yes, I did.

14 Q. And at the time you requested the order of  
15 protection, where was the defendant living?

16 A. 301 Coventry Road North.

17 Q. And after you received that order, did the  
18 defendant continue to live at 301 Coventry Road North?

19 A. Yes, he did.

20 Q. And did there come a time when you went back to  
21 Family Court?

22 A. Yes.

23 Q. And what happened the second time you went back to  
24 Family Court?

25 A. The second time I got an order of protection,



1 right. I got an order of protection.

2 Q. Was the defendant present at Family Court the  
3 second time?

4 A. Yes.

5 Q. And after that second order of protection was  
6 issued, was the defendant continuing to live at 301 Coventry?

7 A. Yes.

8 Oh, after the second one?

9 Q. Yes, after the second one.

10 A. No.

11 Q. After you were at Family Court did there come a  
12 time when you went back to the district attorney's office?

13 A. Yes.

14 Q. Who did you go with?

15 A. Millinia.

16 Q. And what did you do the second time you went to the  
17 district attorney's office?

18 A. Millinia made a statement.

19 Q. And who did she make that statement to?

20 A. Warren Thurer, the DA.

21 Q. Now, after the defendant stopped living at 301  
22 Coventry Road North, did you move inside the house?

23 A. Repeat that, please.

24 Q. After the defendant no longer was living at 301  
25 Coventry Road North, did you or Millinia or Mercedes, did you

1 move out of the basement of your house?

2 A. No.

3 Q. Do you still live there today?

4 A. Yes.

5 Q. Since the defendant moved out, have there been any  
6 changes with respect to the finances at home?

7 A. Yes.

8 Q. How have they changed?

9 A. Me and my son take over the bills and pay what  
10 needs to be paid.

11 Q. Now, after you went to the district attorney's  
12 office, did there come a time when you met with Detective  
13 Toussaint of the Nassau County Police Department?

14 A. Yes, I did.

15 Q. And how did you get in touch with Detective  
16 Toussaint?

17 A. He called me.

18 Q. And did there come a time when you met Detective  
19 Toussaint?

20 A. Yes, I did.

21 Q. Where did you meet him?

22 A. At my house.

23 Q. And what happened when he came to your house?

24 A. We went down the street and we -- Millinia, we were  
25 talking, and Millinia talked to him and opened up to

1 Detective Toussaint.

2 Q. And you said you went down the street. How did you  
3 go down the street?

4 A. In the car.

5 Q. And when you say that Millinia opened up to  
6 Detective Toussaint, were you present for when Detective  
7 Toussaint was speaking to Millinia?

8 A. Yes.

9 Q. Were you in the actual car?

10 A. Yes.

11 Q. And did there come a time when you gave Detective  
12 Toussaint anything?

13 A. Yes, I did.

14 Q. What did you give him?

15 A. I gave him the two cell phones.

16 MR. PERRI: Your Honor, I ask that the witness  
17 be shown what's been marked as People's 1 for ID.

18 (Handed to witness.)

19 Q. Ma'am, do you recognize People's 1 for  
20 identification?

21 A. Yes.

22 Q. What do you recognize it to be?

23 A. My daughter Millinia.

24 Q. And, ma'am, is that a fair and accurate depiction  
25 of how Millinia appeared when she was 12 years old in the

1 second half of her sixth grade year?

2 A. Yes.

3 MR. PERRI: Your Honor, I ask that that be  
4 received in evidence.

5 THE COURT: Please show adversary counsel.  
6 (Handed to counsel.)

7 MR. ZERNER: No objection, your Honor.

8 THE COURT: Received in evidence without  
9 objection, People's 1.

10 (Whereupon, People's Exhibit 1 was received in  
11 evidence.)

12 COURT OFFICER: People's 1 in evidence.

13 MR. PERRI: Nothing further, your Honor.

14 THE COURT: Thank you.

15 Ladies and gentlemen of the jury, we're going  
16 to take five minutes, okay.

17 (Whereupon, the jury exited the courtroom.)

18 THE COURT: Ms. Johnson, as you know, we're  
19 going to take a break. So, you are entitled to that  
20 break as well, but don't talk to anybody about your  
21 testimony while we're on break, okay.

22 THE WITNESS: Okay. Thank you, your Honor.

23 THE COURT: Counsel, five minutes.

24 MR. PERRI: Yes, your Honor.

25 (A recess was taken.)

1 THE CLERK: Are all parties ready?

2 MR. PERRI: Yes, your Honor.

3 (Whereupon, the witness returned to the  
4 witness stand.)

5 THE CLERK: Is the defense ready at this time?

6 MR. ZERNER: Yes, I'm sorry, with all the  
7 noise, I'm pretty sure you had asked me, but I hadn't  
8 quite heard.

9 THE COURT: Please bring the jury back in.

10 (Whereupon, the jury entered the courtroom.)

11 THE CLERK: Let the record reflect the  
12 presence of the jury.

13 Again, People ready?

14 MR. PERRI: Yes.

15 THE CLERK: Defense ready?

16 MR. ZERNER: Yes.

17 THE COURT: Mr. Zerner.

18 MR. ZERNER: Thank you, your Honor.

19 CROSS-EXAMINATION

20 BY MR. ZERNER:

21 Q. Good afternoon, Ms. Johnson.

22 A. Good afternoon.

23 Q. Ms. Johnson, prior to today had you and I ever met?

24 A. No.

25 Q. But prior to today you have spent time with the

1 assistant district attorney, Anthony Perri, correct?

2 A. Yes.

3 Q. And we already learned you spent time with him this  
4 past Sunday on February 7th?

5 A. Yes.

6 Q. And you also spent time with him on February 1,  
7 2016?

8 A. Yes.

9 Q. But those aren't the only two times you met with  
10 him, correct?

11 A. Yes.

12 Q. Tell us when else you have met with Mr. Perri.

13 A. Grand jury, July.

14 Q. July of 2015?

15 A. Yes.

16 Q. And did you meet with him more than once at that  
17 point in time?

18 A. No.

19 Q. So you met with him one day in July of 2015?

20 A. Yes.

21 Q. And he prepared you before you went in and talked  
22 to the grand jury?

23 A. Yes, I spoke with him.

24 Q. And he told you what to expect when you went into  
25 the grand jury?

1 THE COURT: You have to answer, yes or no.

2 A. Yes.

3 Q. Now, prior to July of 2015 had you met with  
4 Mr. Perri?

5 A. No.

6 Q. Or anybody else in the district attorney's office?

7 A. Who I mentioned earlier.

8 Q. So you met with Warren Thurer. Is he an assistant  
9 district attorney also?

10 THE COURT: If you know.

11 A. I don't know.

12 Q. And that was in the building next door, 262 Old  
13 Country Road?

14 A. Yes, it was.

15 Q. And that was in October of 2014?

16 A. Yes.

17 Q. And you also met with him in August of 2014?

18 A. Yes.

19 Q. Were you pleased with him in August of 2014?

20 A. Yes.

21 Q. And when you met with him, he took down notes and  
22 spoke to you?

23 A. Yes.

24 Q. But there was no arrest made in August of 2014,  
25 right?

1 A. No.

2 Q. And you called Mr. Thurer after that?

3 A. Did I call him after that? I'm not sure of the  
4 date.

5 Q. But you did call him after that, right?

6 A. Yeah.

7 Q. You met with him and then after that you called  
8 him, right?

9 A. I'm not sure, so I'm not --

10 Q. Ma'am, you understand what my role is here at this  
11 trial, right?

12 A. Yes.

13 Q. What's my role?

14 THE COURT: Objection sustained.

15 MR. PERRI: Objection.

16 Q. You understand that I'm the defense attorney  
17 defending my client against charges, right?

18 A. Yes.

19 Q. And you have had defense attorneys in the past,  
20 right?

21 MR. PERRI: Objection.

22 THE COURT: Sustained.

23 Q. Now, Ms. Johnson, you have been arrested before,  
24 right?

25 MR. PERRI: Objection.



1 THE COURT: Sustained.

2 Q. Ms. Johnson, did you have any interaction with the  
3 district attorney's office of Nassau County aside from  
4 involving your daughter in 2014?

5 MR. PERRI: Objection.

6 THE COURT: Sustained.

7 MR. ZERNER: Your Honor, if I can have a  
8 sidebar. I thought we talked about this.

9 THE COURT: I don't know what your  
10 recollections are, Mr. Zerner, but I don't appreciate  
11 you offering those in front of the jury.

12 MR. ZERNER: My apologies.

13 THE COURT: You are entitled to speak to me  
14 and we'll speak outside the presence of the jury.

15 So, ladies and gentlemen, I'm just going to  
16 ask you to take a break and step outside. You don't  
17 have to go far.

18 (Whereupon, the jury exited the courtroom.)

19 THE COURT: Ms. Johnson, I'm going to ask you  
20 to excuse yourself for just a few minutes. Again, don't  
21 talk to anyone about the case.

22 THE WITNESS: Yes.

23 (Whereupon, the witness exited the courtroom.)

24 THE COURT: Mr. Zerner, please don't add any  
25 editorialization, if you will, to your objections or

1 requests for a sidebar. Whether we talked about it or  
2 not is not something that the jury is supposed to be  
3 aware of and I don't appreciate it because then I then  
4 have to address it to you publicly.

5 So, the objection was sustained as to the form  
6 of the question, did she have any interaction with the  
7 district attorney's office.

8 MR. ZERNER: However, I believe you made a  
9 ruling that I can cross-examine her on the fact that she  
10 was charged with stealing items on at least two  
11 different occasions.

12 THE COURT: I don't know if that was my  
13 ruling. Mr. Perri?

14 MR. PERRI: Your Honor, I believe your ruling  
15 was the exact opposite, that you ruled that the petit  
16 larcenies were not to be used for cross-examination.  
17 You stated that she received a disposition favorable to  
18 her and they were not related to this case.

19 THE COURT: And that is my recollection,  
20 Mr. Zerner. One, the 1995 interaction with the criminal  
21 justice system is too remote in time for one, as the  
22 prejudice would outweigh any probative value of that.  
23 And with regard to both of them, my understanding  
24 through the People's representations and research and  
25 investigation and our conference in chambers is that you

1           were not allowed to engage in any cross-examination on  
2           those two points for the basic reason that any probative  
3           value to that, which I believe is none, is outweighed by  
4           the prejudicial value or the prejudice to the witness.  
5           So, please remove your line of questioning on those  
6           points.

7                       MR. ZERNER: If I -- just so I'm clear, your  
8           Honor, and I understand and I respect your ruling, it's  
9           my understanding that there was a charge pending in 2014  
10          and that's the year that she just testified to that she  
11          had interaction with an assistant district attorney in  
12          August and an interaction in October. I would ask that  
13          I be allowed to inquire whether there was any discussion  
14          whether it was by the assistant district attorney or the  
15          ADA looked her up in their system on the computer or if  
16          he asked the question about whether she had any pending  
17          charges against her when these charges were first  
18          brought up. I don't know. I don't know if Warren  
19          Thurer --

20                      THE COURT: What is the purpose for that, sir?

21                      MR. ZERNER: That she may very well have had a  
22          vested interest in taking away from the possibility that  
23          she was going to be convicted of a misdemeanor which may  
24          or may not have had --

25                      THE COURT: By charging another individual

1 with criminal conduct, is that the theory?

2 MR. ZERNER: That's one of the theories. If  
3 she turned around and said well, I was charged with a  
4 misdemeanor, which again, I don't know, maybe she was  
5 charged with stealing \$999 worth of items.

6 Maybe a DA looked her up and said this isn't  
7 her first time having a petit larceny and maybe they  
8 won't offer her an ACOD and then she goes ahead and says  
9 my daughter was molested. In August the DA's office  
10 does nothing about that. Ten, 11 weeks later in October  
11 she goes to the DA's office and says, you know, now I  
12 want this person prosecuted. The end result we know is  
13 she received an ACOD.

14 I still haven't seen document one that shows  
15 the date of the disposition of her misdemeanor charge  
16 which was also prosecuted by the same district  
17 attorney's office that is now taking her testimony where  
18 she is the mother of the complainant.

19 THE COURT: Mr. Zerner, you have made your  
20 record. If there is any exception to my ruling, it's  
21 noted for the record, but the Court finds that the  
22 argument is unpersuasive to allow you to engage in a  
23 cross examination of this witness with regard to a  
24 matter that was, for all accounts, made by the People,  
25 was disposed of in the witness's favor and the Court

1 finds that if there was any disposition not in favor of  
2 the defendant that's out there, that the prejudice to  
3 the witness -- excuse me, the prejudice is outweighed --  
4 excuse me. The probative value of that inquiry is  
5 clearly outweighed by the prejudice that it would enure.

6 MR. ZERNER: I understand your ruling, but  
7 please note my exception and what I am saying is that  
8 this witness did get a favorable ruling at the same time  
9 she was the complainant's mother and she was a  
10 defendant, same county, same district attorney's office.

11 THE COURT: Some other Court might look at  
12 that and come to a different conclusion. This Court's  
13 conclusion is that it's mere speculation.

14 MR. ZERNER: And if I might ask these blinds  
15 be put down.

16 THE COURT: You may.

17 MR. ZERNER: They are blinding me.

18 THE COURT: They are.

19 (Whereupon, the witness returned to the  
20 witness stand and the jury entered the courtroom.)

21 THE CLERK: Let the record reflect the  
22 presence of the jury. All parties are present. People  
23 ready?

24 MR. PERRI: Yes, your Honor.

25 THE CLERK: Defense ready?

1 MR. ZERNER: We are.

2 THE COURT: Before we break -- before we  
3 broke, ladies and gentlemen, there was an objection.  
4 That objection is sustained. Mr. Zerner will continue  
5 his cross-examination of the witness.

6 MR. ZERNER: Thank you, your Honor.

7 BY MR. ZERNER:

8 Q. Ms. Johnson, you have been living at your home at  
9 301 Coventry Road North for 40 years you said?

10 A. Yes.

11 Q. And that's where you lived when you were a child?

12 A. Yes.

13 Q. How many siblings do you have?

14 A. I have three. Actually, two now. One's deceased.

15 Q. I'm sorry, there was a squeaking behind me. I  
16 didn't quite hear you.

17 A. I have two siblings.

18 Q. One of them is Tara Johnson?

19 A. Yes.

20 Q. She's your older sister?

21 A. Yes.

22 Q. What's the name of your other sibling?

23 A. Anthony Johnson.

24 Q. He's younger than you?

25 A. Older than me.

1 Q. So it's Anthony, Tara, Sarita?

2 A. Yes.

3 Q. Was there ever a time that you moved out of that  
4 house?

5 A. No, no.

6 Q. You never lived in Laurelton, Queens with Rafael  
7 Mickens?

8 A. No.

9 Q. Did you ever live anywhere with Rafael Mickens?

10 A. He stayed at my house with me at some point in  
11 time.

12 Q. And who is Rafael Mickens to you?

13 A. Millinia's father.

14 Q. And when was he living with you at your home?

15 A. I want to say over eight years ago.

16 Q. So we're talking about 2008, give or take?

17 A. Five maybe. 2005. Maybe 2005.

18 Q. So my question and I apologize for it being a  
19 compound question, but I hope the judge will allow it, it was  
20 for how many years and what span of time, please?

21 THE COURT: Let's break it down, Mr. Zerner,  
22 please.

23 Q. When did Rafael Mickens first start living at 301  
24 Coventry Road?

25 A. Millinia is 15. In the early part of her life, two

1 thousand something. I'm not sure, 2001, 2002.

2 Q. Okay. So it's your testimony that Rafael Mickens  
3 started living with you shortly after Millinia was born; is  
4 that fair to say?

5 A. Yes.

6 Q. And for how many years did he live with you and  
7 Millinia?

8 A. Maybe five. Five I want to say.

9 Q. So approximately from 2001 until 2006?

10 A. Yes.

11 Q. Okay.

12 And why did he move out?

13 MR. PERRI: Objection.

14 THE COURT: Overruled.

15 You can answer.

16 A. Difference of agreement. We separated.

17 Q. Well, you were never married to him, right?

18 A. No.

19 Q. And he lived with you for about five years?

20 A. Yeah.

21 Q. And then you became pregnant by another man?

22 MR. PERRI: Objection.

23 THE COURT: The objection is sustained. Next  
24 question.

25 Q. How many children do you have?



1 A. I have four.

2 Q. Could you tell us the first one's name and the year  
3 of birth?

4 A. Malik, 1993.

5 Q. And your next child?

6 A. Mercedes, 1997.

7 Q. And they have the same father, right?

8 A. Yes, they do.

9 Q. What's his name?

10 A. Robert Jones.

11 Q. And were you ever married to him?

12 A. No.

13 Q. And did he ever live at 301 Coventry Road?

14 MR. PERRI: Objection; relevance.

15 THE COURT: No, overruled.

16 Did he ever live there, ma'am?

17 THE WITNESS: No.

18 Q. And then you had a baby Millinia in the year 2000,  
19 right?

20 A. Yes.

21 Q. Rafael Mickens is her father?

22 A. Yes.

23 Q. And you never married him, but you did live with  
24 him for about five years?

25 A. Yes.

1 Q. And then your youngest child's name is what?

2 A. Sherima.

3 Q. How old is she?

4 A. Eight.

5 Q. So she was born in two thousand?

6 A. Seven.

7 Q. Who is her father?

8 A. Sherman Roberts.

9 Q. And did he ever live at 301 Coventry Road?

10 A. Briefly. I believe he stayed with me for a brief  
11 time.

12 Q. What year would that have been?

13 A. She was a baby. She's eight now. Roughly seven  
14 years ago. Maybe seven years ago.

15 Q. So he lived with you for about a year, perhaps  
16 around 2008; is that fair to say?

17 A. 2008? No, earlier maybe. I'm not sure actually.

18 THE COURT: Next question, Mr. Zerner.

19 MR. ZERNER: Thank you, your Honor.

20 Q. Now, in 2008 when Sherman Roberts was living at 301  
21 Coventry Road North, your sister Tara and Ray Ross lived  
22 there as well, correct?

23 A. Yes, they did.

24 Q. And when Ray Ross moved into your house, he was  
25 contributing to the bills, correct?

1 A. I believe so.

2 Q. Were --

3 A. I don't know. That was between him and Tara, my  
4 sister.

5 Q. Were you ever involved in paying the bills?

6 A. No, but not because I wasn't willing to.

7 Q. Well, then why weren't you paying the bills?

8 A. There was some sort of discrepancy about me paying  
9 period at all and there were not any clear lines about who's  
10 to pay and who is going to be doing what, things like that.  
11 Some sort of discrepancy.

12 Q. Discrepancies within the family?

13 A. Yes.

14 Q. Now, have you ever worked a full-time job?

15 A. Yes, I have.

16 Q. And how recently did you work a full-time job?

17 A. Full time on the books, '07.

18 Q. What do you mean by on the books?

19 A. I did odd jobs, baby-sat, cleaned, I even do nails,  
20 things like that.

21 Q. And that was never --

22 A. To make money because I was taking care of my  
23 children.

24 Q. That was full time?

25 A. It's full time because I can't say I was in one

1 particular place, like I punched in or I had a W-2 form.

2 Q. But you did pay taxes on that income, correct?

3 A. Yes, when I worked I did.

4 Q. When you worked doing the odd jobs, did you pay  
5 taxes?

6 A. No, it wasn't substantial enough for me to report.

7 Q. So approximately what was the dollar amount you  
8 were making in these off the books jobs you describe?

9 A. Maybe \$40 at a time, things like that.

10 Q. Forty dollars a week, \$40 a day?

11 A. Maybe three times a week maybe. I can't be certain  
12 exactly the date and time.

13 Q. Did you keep records?

14 A. Not per se.

15 Q. And this was after you had your last full-time job?

16 A. Yes.

17 Q. And that was working as a bus matron?

18 A. Yes.

19 Q. How long did that job last?

20 A. A year-and-a-half.

21 Q. A year-and-a-half.

22 Why did that job end?

23 A. I was pregnant with Sherima, my last child.

24 Q. Now, prior to that year-and-a-half period, what  
25 other jobs had you had full time?

1           A.    Full time.  I worked in Great Neck, yes, I worked  
2   in Great Neck before full time.

3           Q.    So geographically, what were you doing in Great  
4   Neck?

5           A.    I worked in an office.  I worked in a library,  
6   circulation department, daycare.  I worked in corporate.

7           Q.    Let's slow down.  First of all, when you worked in  
8   Great Neck, who did you work for specifically?

9           A.    Lilo and Jerry Leeds.

10          Q.    And for how long did you work there?

11          A.    Five years.

12          Q.    Five years.

13                What kind of job was that?

14          A.    I just explained it.  I just said that.  I did  
15   reception.  I did daycare.  I did circulation department,  
16   library.

17                MR. ZERNER:  I'm sorry, Judge, if I can break  
18   down the question.

19          Q.    Lilo and Leeds is an organization I'm not familiar  
20   with.  Is it at that one organization that you did reception  
21   and daycare?

22          A.    Yes.

23          Q.    And books?

24          A.    Yes.

25          Q.    Is it a library?

1 A. It was a publication company and I worked all over.

2 Q. And what years did you work there?

3 A. Up until '92. Five years.

4 Q. That ended in 1992?

5 A. Yes.

6 Q. I'm sorry, it might have been --

7 A. I can't be certain. You are going back in time.

8 Q. So between 1992 and 2007 did you have any full-time  
9 position at anyplace?

10 A. No, because I was rearing children. I did work  
11 some websites through social services, odd jobs. I worked at  
12 the bus company.

13 Q. How many hours a week were you working at the bus  
14 company?

15 A. Eight hours.

16 Q. Eight hours a day, five days a week?

17 A. Yes.

18 Q. That's when you met Sherman Roberts, right?

19 A. Yes.

20 Q. And you got pregnant. You met him, got pregnant.  
21 You started a relationship?

22 A. Yes.

23 Q. After you had the baby you didn't go back to work?

24 A. No.

25 Q. Now, between 1992 and 2007 your sister Tara was

1 also living at 301 Coventry Road North, right?

2 A. Yes.

3 Q. And your mother was living there as well, right?

4 A. Yes.

5 Q. And were you ever involved in helping to pay the  
6 bills at that home during that time frame?

7 A. Yes. We had a unique situation in which the lines  
8 of my mother wanted me to pay or she didn't want me to pay.  
9 It was like don't pay, pay. It was some sort of discrepancy  
10 about paying or not paying and different things. It wasn't  
11 clear. At one point she said not to pay.

12 Q. So what did you do with your money when you weren't  
13 paying for household bills?

14 MR. PERRI: Objection.

15 A. Taking care of my children.

16 Q. Were you also on public assistance?

17 A. Yes.

18 Q. So you were getting food stamps?

19 A. Yes.

20 Q. And you were getting welfare?

21 A. Yes.

22 MR. PERRI: Objection.

23 Q. Welfare has changed names.

24 MR. PERRI: Objection.

25 THE COURT: Mr. Zerner, adversary counsel has

1 stood up and noted an objection. Overruled.

2 Next question, Mr. Zerner.

3 MR. ZERNER: Thank you, your Honor.

4 Q. Your sister Tara has worked a steady job for the  
5 last 20 plus years, correct?

6 A. Yes.

7 Q. She works at HSBC bank?

8 A. Yes, she does.

9 Q. She's your older sister, right?

10 A. Yes.

11 Q. Now, you said that she got power of attorney with  
12 regards to your mother, right?

13 A. Uh-huh.

14 Q. Yes?

15 A. Yes.

16 THE COURT: You have to answer yes or no.

17 A. Yes.

18 Q. And did that bother you that she was made power of  
19 attorney?

20 A. No.

21 Q. When was that done?

22 A. When my mother went into -- sometime when she was  
23 in the nursing home. I couldn't be certain.

24 Q. So around 2009, 2010?

25 A. Yes.



1 Q. And that was okay with you that she became power of  
2 attorney?

3 A. Yes.

4 Q. And she made sure the bills were paid in the house,  
5 correct?

6 A. Yes.

7 Q. Your sister Tara, right?

8 A. Yes.

9 Q. So let's focus on that time frame right there in  
10 2009, 2010. Tell us who was living in the house at that  
11 point in time.

12 A. Me and my children, her daughter. That's it.

13 Q. Ray Ross wasn't living there in 2010?

14 A. Ray Ross, yes.

15 Q. What about your nieces and nephews? Not Tara's  
16 children, but Anthony's children.

17 A. They did have a brief stay there, they did. They  
18 had a situation and they stayed and then they moved on.

19 Q. Were they contributing to the bills at that time?

20 THE COURT: At what time are we speaking  
21 about?

22 MR. ZERNER: 2009, 2010.

23 A. I don't know. Tara has a relationship with them on  
24 their own. I don't know everything that went on.

25 Q. But they're your nieces and nephews the way they

1 are Tara's nieces and nephews?

2 THE COURT: Sustained.

3 Q. When Mr. Sherman Roberts was living at the house,  
4 did he also contribute to the bills, if you know?

5 A. I don't know if they had a personal thing. He  
6 would help me like get things like food and things like that.

7 Q. So Sherman Roberts contributed to the expenses  
8 involving his daughter Sherima, right?

9 A. Yeah.

10 Q. Did he provide you cash?

11 A. Cash.

12 Q. What about Rafael Mickens, Millinia's father, did  
13 he also help with the expenses involving childcare?

14 A. Childcare? Well, he was helpful. We worked  
15 together. Yeah, he did contribute.

16 Q. He provided money to you, right?

17 A. He did.

18 Q. And Robert Jones, did he also contribute to the  
19 household?

20 A. I would say to the children, yeah.

21 Q. Well, contributing to you for food and childcare  
22 expenses, that's contributing, right?

23 A. Yeah.

24 Q. Did you ever have any issues with them as far as  
25 visitation of their children?

1 MR. PERRI: Objection.

2 THE COURT: Sustained.

3 Next question.

4 Q. Now, Rafael Mickens is Millinia's father, right?

5 A. Uh-huh.

6 Q. Yes?

7 A. Yes.

8 Q. Is he married?

9 MR. PERRI: Objection.

10 THE COURT: When, sir? Now, presently?

11 Q. Is he married now?

12 THE COURT: Overruled.

13 A. I don't know.

14 Q. Do you know if he's ever been married?

15 MR. PERRI: Objection.

16 THE COURT: Overruled.

17 A. I don't know.

18 Q. Aside from Millinia, do you know if Rafael Mickens  
19 has any other children?

20 MR. PERRI: Objection.

21 THE COURT: Overruled.

22 A. I don't know.

23 Q. You don't know whether Rafael Mickens has children  
24 besides Millinia?

25 MR. PERRI: Objection.

1 THE COURT: Sustained.

2 Q. Does Robert Jones have any children besides Malik  
3 and Mercedes?

4 MR. PERRI: Objection.

5 THE COURT: Sustained.

6 Q. Now, you told us during direct examination that you  
7 know Ray Ross' ex-wife, right?

8 A. Yes.

9 Q. Her name is Paula Ross?

10 A. Yes.

11 Q. But they're not married anymore, correct?

12 A. I don't know.

13 Q. But you know Paula Ross?

14 A. I do.

15 Q. And Paula Ross has been to the home at 301 Coventry  
16 Road North?

17 A. Yes, she has.

18 Q. On more than one occasion?

19 A. Yes.

20 Q. And you have seen her interact with your children  
21 and your nieces and nephews?

22 A. Yes.

23 Q. How would you describe her?

24 A. She's okay. Fair.

25 Q. She's okay, right?

1 A. Uh-huh.

2 Q. Yes?

3 A. Yes.

4 Q. And she does hair, right?

5 A. Yes.

6 Q. Did you ever see her help your daughters with their  
7 hair?

8 A. Yes.

9 Q. More than one of your daughters, correct?

10 A. I don't know if it was more than one.

11 Q. But she was kind to your daughters, correct?

12 A. Yes.

13 Q. Were there ever times when there were multiple  
14 people at the home, including guests like Sherman Roberts,  
15 Paula Ross when Ray Ross would buy dinner for everybody?

16 A. I can't recollect.

17 Q. You can't recollect any time when Ray Ross bought  
18 pizza for everybody?

19 A. I can't.

20 Q. You can't recollect any time that Mr. Ross bought  
21 ices for everyone?

22 A. I can't.

23 Q. You can't recollect any time that Mr. Ross bought  
24 ice cream for everyone?

25 A. I can't.

1 Q. Mr. Ross ever buy you a meal?

2 A. I can't say for certain.

3 Q. This extended family living in this house at 301  
4 Coventry Road North, did you commonly eat meals together?

5 A. Honestly, I cannot recollect.

6 Q. Well, my question is did you eat meals together,  
7 yes or no?

8 THE COURT: On a regular basis, ma'am, did the  
9 extended family eat a meal together?

10 THE WITNESS: On a regular basis, no.

11 Q. Do you recollect any times that the family would  
12 eat together?

13 A. I'm sure. I can't specify, but yes, I'm sure we  
14 did. I'm pretty certain that I did.

15 Q. So from 2007 to the present, is it fair to say that  
16 you were home most days with your children?

17 A. Yes, I was busy. I know that I do shopping,  
18 laundry, jobs, things like that.

19 Q. Did you have outside help for childcare?

20 A. Outside help? No.

21 Q. So in two thousand --

22 A. What do you mean by that?

23 MR. ZERNER: I'll ask another question, your  
24 Honor, if I may?

25 THE COURT: You may.

1 Q. In 2007 you gave birth to Sherima, right?

2 A. Yes.

3 Q. So you were home with the baby, right?

4 A. Yes.

5 Q. And at that point in time Millinia was six or  
6 six-and-a-half, right?

7 A. Uh-huh.

8 Q. Yes?

9 A. Yes.

10 Q. And you would be home with the kids, right?

11 A. Yes.

12 Q. And Ray would get up and go to work early in the  
13 morning; is that fair to say?

14 A. Yes.

15 Q. Ray worked a regular job early in the morning, come  
16 home late in the afternoon?

17 A. I can't be certain if he left at night and came in  
18 the morning or if he left in the morning and stayed to the  
19 afternoon.

20 Q. Maybe his hours changed, but he was a hard working  
21 man, correct?

22 A. He did work. I know he -- I know that he left at  
23 those times, whether overnight to morning or morning to  
24 evening.

25 Q. The whole time you knew Ray Ross, he had a steady

1 full-time job; is that fair to say?

2 A. No.

3 Q. Do you remember a point in time when Ray Ross did  
4 not have a steady full-time job?

5 A. Yes, I believe that he was out on disability.

6 Q. What was that time frame?

7 A. I can't recollect the year, but sometime within  
8 that 2007 on down to when he left, '14, he was out on  
9 disability.

10 Q. But he was still contributing to the household,  
11 correct?

12 A. From what I know, yes.

13 Q. Well, at that point in time there would be oil for  
14 the heater, correct?

15 A. Yes.

16 Q. You do have oil heat at the house, right?

17 A. Yes.

18 Q. And at that point in time there is a mortgage on  
19 the house?

20 A. I'm not certain.

21 Q. It's nothing that you personally deal with as far  
22 as the bills in the house, right?

23 A. No.

24 Q. Right now in 2016 is the house in foreclosure?

25 A. I'm not certain.



1 Q. You are not aware of it even to today's date?

2 A. No.

3 Q. Who deals with the bills today?

4 A. Me and my son, we do. We taking over the  
5 utilities. And like I said, Tara left and she didn't put any  
6 parameters, any perspective on anything about the house.

7 Q. So it's Tara's fault?

8 A. And neither did he.

9 Q. So it's Tara's fault?

10 MR. PERRI: Objection.

11 A. I'm not saying.

12 THE COURT: Hold it, ma'am. There is an  
13 objection. The objection is sustained.

14 Q. When did Tara move out of the house?

15 A. A few months ago.

16 Q. Did she tell you she was leaving before she left?

17 A. Hearsay. Actually, no.

18 Q. You lived with your sister for how many years?

19 A. Ten, 20.

20 Q. Would you interact with her on a weekly basis?

21 A. Well, I see her, but we didn't talk much and Tara  
22 did not make anything apparent about the household. She  
23 never really talked about anything that was going on.

24 Q. But when Tara was there the lights were on and the  
25 heat worked, correct?

1 A. It did.

2 Q. And nobody ever came to the house and said it was  
3 in foreclosure when Tara was living there, right?

4 A. Not in foreclosure. I, you know, nobody came to  
5 me. There has been people that have dropped things at the  
6 house.

7 Q. What kind of things did they drop?

8 A. For Tara.

9 MR. PERRI: Objection.

10 THE COURT: The objection is sustained.

11 Q. Now, your sister generally works -- scratch that.  
12 Withdrawn.

13 When your sister was living at 301 Coventry Road  
14 North, to the best of your recollection, she was working  
15 regular hours, approximately 9:00 to 5:00?

16 A. Yes.

17 Q. That was Monday through Friday?

18 A. I would assume so, yes. Yes.

19 Q. I don't want you to assume. I want to know if you  
20 noticed her leaving the house in the morning?

21 A. I did notice her leaving the house in the morning.

22 Q. Did you notice her coming back to the house at  
23 night?

24 A. Yes.

25 Q. And now even your youngest child is in school,

1 correct?

2 A. Uh-huh.

3 Q. Yes?

4 A. Yes.

5 Q. And what grade is Sherima in?

6 A. Sherima is in second grade.

7 Q. What time does the last child get on the bus to go  
8 to school now?

9 MR. PERRI: Objection.

10 THE COURT: Sustained.

11 Q. What do you do on a daily basis?

12 MR. PERRI: Objection.

13 THE COURT: Sustained.

14 Q. Now, earlier on when Mr. Perri was asking you  
15 questions, he asked you whether any money was owed between  
16 yourself and Mr. Ross, do you remember that?

17 A. Yes.

18 Q. And your answer was that nobody owes anybody  
19 anything, right?

20 MR. PERRI: Objection.

21 THE COURT: Yes, the objection is sustained as  
22 to the question.

23 Q. Were there times that you observed Ray Ross  
24 spending money for food that benefited your children?

25 A. That benefited my children? I can't say that he

1 didn't bring anything in and say you are welcome to have it,  
2 but I can't say that he brought groceries in and said this is  
3 for you all, like that. That I can't.

4 Maybe he purchased something and said you are  
5 welcome to have some, but never like I brought groceries in  
6 for you and your children or Sarita, this is for the kids or  
7 anything like that.

8 Q. How many refrigerators are at the house?

9 MR. PERRI: Objection.

10 THE COURT: Sustained.

11 Q. Would Tara ever spend money that benefited you and  
12 your children?

13 MR. PERRI: Objection.

14 THE COURT: Overruled.

15 A. Very little. Again, never that I brought groceries  
16 in for you and the kids. Again, it may be something like she  
17 might have brought something in from a job or a party and  
18 left it in the kitchen and whoever wanted it, wanted it.  
19 Sometimes she may say you can have some and maybe she would  
20 just leave it there and assume someone would eat it.

21 Q. Is it fair to say there is one kitchen in the home?

22 A. Yes.

23 Q. Several were sharing one refrigerator?

24 A. Well, I have one. I have a refrigerator, yes.

25 Q. So the house we described as a split level?

1 A. Yes.

2 Q. And you basically live downstairs with your four  
3 kids?

4 A. Yes.

5 Q. And is the kitchen upstairs?

6 A. Yes.

7 Q. And is there a kitchen downstairs? And I'm sorry,  
8 is there a refrigerator downstairs, as well as a refrigerator  
9 upstairs in the kitchen?

10 A. There is one upstairs.

11 Q. Is there also a refrigerator downstairs?

12 A. Yes.

13 Q. Did you keep your food separated from --

14 A. Yes. From upstairs, yes.

15 Q. And did you have a kitchen, a way to cook in the  
16 basement?

17 A. No.

18 Q. So if you had food that you needed to prepare,  
19 where would you do that?

20 A. Upstairs.

21 Q. So everyone shared that kitchen?

22 A. Yeah.

23 Q. There is no lock on the refrigerator, right?

24 A. No.

25 Q. And it's fair to say sometimes you took food from

1 the refrigerator upstairs?

2 A. No.

3 Q. You never took food from the refrigerator upstairs?

4 A. No. In fact, the refrigerator upstairs is not  
5 working.

6 Q. Well, was it working in 2013?

7 THE COURT: Sustained.

8 MR. PERRI: Objection.

9 THE COURT: Mr. Zerner, can we move on from  
10 the kitchen appliances.

11 MR. ZERNER: Certainly, your Honor.

12 Q. Mr. Perri asked you questions about how the  
13 downstairs was set up and you answered it's like a dormitory?

14 A. Uh-huh.

15 Q. Yes?

16 A. Yes.

17 MR. ZERNER: I apologize, your Honor.

18 THE COURT: That's fine. Next question.

19 Q. Were there bunk beds downstairs?

20 A. Beds.

21 Q. But not bunk beds like one on top of the other?

22 A. No.

23 Q. And you said to Mr. Perri that he asked you whether  
24 any beds were shared and you said no, but then you said that  
25 two people sleep in one bed, right?

1 A. Yeah.

2 Q. So somebody does share a bed, right?

3 A. Yes.

4 Q. Who shares a bed downstairs?

5 A. The two older girls.

6 Q. The two older girls being Mercedes and Millinia?

7 A. Yes.

8 Q. How do they get along?

9 A. Good.

10 Q. Is Mercedes a good influence on Millinia?

11 A. Yes.

12 MR. PERRI: Objection.

13 THE COURT: Overruled.

14 Q. Have you ever noticed the two girls talking about  
15 girl things?

16 MR. PERRI: Objection.

17 THE COURT: Sustained.

18 Q. Now, the two girls share a bed and then you have  
19 your own bed?

20 A. Yes.

21 Q. And then there is one other bed?

22 A. No. There is one bed and then I have like a  
23 pull-out bed, like a recliner that I sleep on.

24 Q. So you sleep on a recliner, the two girls share a  
25 bed. Malik has a bed and Sherima has a bed?

1           A.    Malik's room is upstairs. He's not in the  
2 dormitory. He's upstairs.

3           Q.    When did that start?

4           A.    He's been upstairs.

5           Q.    When did that start?

6           A.    Years. I can't be specific.

7           Q.    Was he upstairs in 2013?

8           A.    Yes.

9           Q.    Was he upstairs in 2014?

10          A.    Yes.

11          Q.    Where was his bedroom in relation to the room that  
12 Ray and Tara shared?

13          A.    Next door.

14          Q.    Right next door. They shared a wall?

15          A.    Yeah.

16          Q.    And does Malik date?

17          A.    Date?

18                   MR. PERRI: Objection.

19                   THE COURT: Sustained.

20          Q.    Does Malik have any children?

21                   MR. PERRI: Objection.

22                   THE COURT: Sustained.

23          Q.    Is Malik married?

24                   MR. PERRI: Objection.

25                   THE COURT: No, overruled.



1 A. Is Malik married?

2 THE COURT: Yes.

3 A. No.

4 Q. Is Malik in a committed relationship?

5 MR. PERRI: Objection.

6 THE COURT: Sustained.

7 Q. Now, you described earlier that there is a  
8 television upstairs, but not a television downstairs?

9 A. Yes.

10 Q. So we're saying in 2013. Let's focus on 2013. How  
11 many televisions were in that house in 2013?

12 A. One.

13 Q. There was only one television and that was located  
14 in the room that Tara and Ray shared?

15 A. Yes.

16 Q. And Tara and Ray paid for the cable bill on that TV  
17 as far as you know, right?

18 A. Yes.

19 Q. And did you ever ask about having a TV in your part  
20 of the house?

21 A. No, not that I recollect.

22 Q. So you made a decision not to have TV, correct?

23 A. Made a decision? I just didn't think about it.

24 THE COURT: Next question.

25 Q. Were there times when Millinia specifically in 2013

1 expressed to you a desire to watch TV?

2 A. She did.

3 Q. Were there times that Sherima wanted to watch TV?

4 A. I can't be specific. I'm not sure.

5 Q. Okay. What shows did Millinia like to watch in  
6 2013?

7 A. She likes movies, wrestling, comedy.

8 Q. So in 2013 Ray and Tara had a TV in their room and  
9 they could receive movies on the TV?

10 A. Yes.

11 Q. Maybe they had HBO or other movie channels?

12 A. Yes.

13 Q. Do you know if they had HBO or other movie  
14 channels?

15 A. Yes.

16 Q. Did you ever watch TV in that room?

17 A. Briefly. I would maybe come in and just look over.  
18 I have walked in and would look over and leave or something  
19 like that.

20 Q. You don't watch much TV?

21 A. No.

22 Q. Do you have a dog?

23 A. I do.

24 Q. What kind of dog?

25 MR. PERRI: Objection.

1 THE COURT: Sustained. Next question.

2 Q. When did you first get a dog?

3 MR. PERRI: Objection.

4 THE COURT: Sustained.

5 Q. Did you ever notice Ray and Tara going to church?

6 MR. PERRI: Objection.

7 THE COURT: No, overruled.

8 A. Maybe once or twice.

9 Q. You observed them once or twice or they went to  
10 church once or twice?

11 A. Excuse me?

12 Q. I'm going to ask you another question.

13 A. Go ahead.

14 Q. Is it true that Ray Ross goes to church on a  
15 regular basis?

16 A. I don't know.

17 Q. Is it true that Tara Johnson goes to church on a  
18 regular basis?

19 MR. PERRI: Objection.

20 THE COURT: Sustained.

21 All right, ladies and gentlemen, it's now a  
22 little bit past 4:30 and we have a closing time at 4:30,  
23 so I'm going to break it here.

24 Remember my admonitions. You are not to talk  
25 about the case, read about it, think about it, discuss

1 it whatsoever until we see you tomorrow morning, 9:30  
2 a.m. Thank you very much.

3 (Whereupon, the jury exited the courtroom.)

4 THE COURT: Ms. Johnson, you are still on the  
5 stand testifying at this trial, so you cannot have any  
6 conversation with anyone about your testimony or the  
7 trial until we meet again tomorrow morning.

8 THE WITNESS: Okay.

9 THE COURT: Have a good night. See you again  
10 tomorrow morning.

11 We're adjourned till tomorrow morning.

12 (Whereupon, the trial was adjourned to  
13 February 10, 2016.)

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1 SUPREME COURT OF THE STATE OF NEW YORK  
2 COUNTY OF NASSAU : PART 47

3 -----X  
4 THE PEOPLE OF THE STATE OF NEW YORK

5 -against-

Ind. No. 1050N/15

6 JURY TRIAL

7 RAY ROSS,

8 DEFENDANT.

9 -----X  
10 Mineola, New York  
11 February 10, 2016

12 B E F O R E: HON. TERENCE P. MURPHY  
13 Acting Supreme Court Justice

14 A P P E A R A N C E S:

15 (Same as previously noted)

16  
17  
18 Kathi A. Fedden  
19 Official Court Reporter

20 \*

\*

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21  
22 THE CLERK: Continued case on trial, People  
23 versus Ray Ross. The jury is not present. All parties  
24 are present, Judge.

25 THE COURT: Good morning, Counsel.

Kathi A. Fedden, Sr. Court Reporter

1 MR. PERRI: Good morning, your Honor.

2 MR. ZERNER: Good morning, your Honor.

3 THE COURT: I was in at work at 8:30 this  
4 morning and received a phone call from juror number  
5 nine, Mr. Patrick Pierre who informed me that he was  
6 engaged at work and could not make Court this morning  
7 and, in fact, indicated that he probably couldn't be  
8 here before 12:00. I did not identify myself, but I  
9 took the information down. And I did inquire whether or  
10 not this was going to be a persistent problem or whether  
11 it was a one-time issue.

12 Mr. Pierre informed me it was a one-time  
13 issue. I took his contact number and I have had my  
14 secretary call him a number of times this morning with  
15 no response back. My staff also made contact with  
16 Madison Square Garden and spoke with Mr. Pierre's  
17 supervisor and informed the supervisor of Mr. Pierre's  
18 requested return phone call to chambers with regard to  
19 his jury duty. We still have not made contact with  
20 Mr. Pierre.

21 I have communicated these issues with counsel  
22 and it was agreed in a chambers conference that we allow  
23 Mr. Pierre the opportunity to return to Court to  
24 continue his duty as a sitting juror in this case. Is  
25 that correct, Mr. Perri?

1 MR. PERRI: Yes, your Honor.

2 THE COURT: Mr. Zerner?

3 MR. ZERNER: Yes, your Honor.

4 THE COURT: So it's now 11:15 and without  
5 having heard from Mr. Pierre, the Court is going to  
6 release the jury for the rest of the day, have them come  
7 back tomorrow morning at 9:30. Is that acceptable to  
8 the People?

9 MR. PERRI: Yes, your Honor.

10 THE COURT: Acceptable to the defense?

11 MR. ZERNER: Yes, your Honor.

12 THE COURT: And the Court will make further  
13 inquiry of Mr. Pierre when we see him tomorrow and find  
14 out exactly what the issue was.

15 Anything for the record, Mr. Perri?

16 MR. PERRI: No, your Honor.

17 THE COURT: Mr. Zerner?

18 MR. ZERNER: We were talking about something  
19 in chambers before that we were talking about possibly  
20 putting on the record. It escapes me at the moment  
21 though.

22 THE COURT: It was an incident with regard to  
23 Ms. Johnson and some interaction with the Rockville  
24 Centre Police Department.

25 MR. ZERNER: Yes, your Honor. I provided to

1 the Court, as well as to the prosecutor, more evidence  
2 of an incident that took place in 2011 in Rockville  
3 Centre whereby their current witness was charged with a  
4 misdemeanor. We had been unsure about how many times  
5 that she had been charged with that misdemeanor. To  
6 date I still have not personally been allowed to review  
7 a NYSIS. The prosecutor has not provided it, despite  
8 my --

9 THE COURT: It's been made a Court exhibit,  
10 Mr. Zerner. Can we have Court Exhibit VII I believe?

11 MR. ZERNER: If a copy could be provided to  
12 me, your Honor, that would be helpful.

13 THE COURT: Any objection, Mr. Perri?

14 MR. PERRI: I mean, your Honor, the People  
15 would object. He's not entitled to a NYSIS. It's not  
16 discoverable material. The NYSIS is blank. It does  
17 have her NYSIS number.

18 THE COURT: You will certainly be entitled to  
19 look at the Court exhibit.

20 MR. ZERNER: Thank you, your Honor.

21 My real question and, again, it keeps being  
22 revealed why the prosecutor is so insistent on me not  
23 seeing a blank document belies my imagination.

24 That being said, your Honor, it's clear to me  
25 at this point that we have evidence of at least three



1 interactions with the criminal justice system.

2 THE COURT: We have information, I don't know  
3 if I would characterize it as evidence. The latest you  
4 provided was a snippet from a local newspaper that said  
5 that there was some police, Rockville Centre Police  
6 Department activity that named Ms. Johnson as having  
7 been arrested for petit larceny at a Home Goods store in  
8 2011.

9 MR. ZERNER: That's right, and the record  
10 reflects that in 2014 Mr. Perri provided a narrative  
11 about that and in 1995 as well. Nevertheless, your  
12 Honor has made a ruling I would not be allowed to  
13 inquire into that and has instructed the People to do  
14 several things as far as investigating that. I do thank  
15 your Honor for that. I know that my exception will be  
16 noted on the record, as I believe I am both entitled to  
17 a NYSIS and entitled to cross-examine on it, but, of  
18 course, I will respect your ruling.

19 THE COURT: Thank you, Mr. Zerner. Your  
20 exception is so noted. I think that's it.

21 Can we have the jury?

22 (Whereupon, the jury entered the courtroom.)

23 THE COURT: Good morning, ladies and gentlemen  
24 of the jury. I'm sorry for the delay, but I want to  
25 inform you of the reasons for that delay. As you know,

1       you are sitting as one body, a jury, and I further  
2       indicated to you that as a singular body we need all 14  
3       of you present and accounted for before we can continue  
4       the process. As you can see, we have one missing juror.  
5       Don't speculate about why that individual juror is  
6       missing. We anticipate the juror will be back tomorrow  
7       morning, so before I require you to stay the afternoon  
8       without having anything done, I have made a decision to  
9       adjourn the proceedings for today to allow you the  
10      afternoon for some free time. You still are on jury  
11      duty. You get credit for jury duty for the full day,  
12      but you have the freedom to do whatever you want for the  
13      rest of the day, other than doing the things that you  
14      are not allowed to do as sitting jurors that you will  
15      recall I admonished you or instructed you on.

16               I will ask you once again to remember those  
17      admonitions, to comply with those admonitions. Forget  
18      about the case until tomorrow morning. Enjoy the rest  
19      of your day and we'll see you 9:30 tomorrow morning.

20               (Whereupon, the jury exited the courtroom.)

21               THE COURT: All right, Counsel, tomorrow  
22      morning hopefully we will get a full day in and continue  
23      with those full days until the completion of the trial.

24               MR. PERRI: Thank you, your Honor.

25               MR. ZERNER: Thank you.

1 (Whereupon, the trial was adjourned to  
2 February 11, 2016.)  
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1 SUPREME COURT OF THE STATE OF NEW YORK  
2 COUNTY OF NASSAU : PART 47

3 -----X  
4 THE PEOPLE OF THE STATE OF NEW YORK

5 -against-

Indictment No. 1050N/15

6 JURY TRIAL

7 RAY ROSS,

8 DEFENDANT.  
9 -----X

10 Mineola, New York  
11 February 11, 2016

12 B E F O R E: HON. TERENCE P. MURPHY  
13 Acting Supreme Court Justice

14 A P P E A R A N C E S:

15 (Same as previously noted)

16  
17 Kathi A. Fedden  
18 Wendy Silas  
19 Official Court Reporters

20 \* \* \*

21 THE CLERK: Continued case on trial, People v.  
22 Ray Ross. All parties are present. The jurors are not  
23 in the courtroom at this time.

24 Are the People ready?

25 MR. PERRI: Yes, your Honor.

Kathi A. Fedden, Sr. Court Reporter

1 THE CLERK: Defense ready?

2 MR. ZERNER: We are ready.

3 THE COURT: Okay.

4 MR. PERRI: Your Honor, before bringing the  
5 jury in, the People are handing up to the Court a faxed  
6 copy from the Rockville Centre Police Department.

7 THE COURT: You showed your adversary counsel?

8 MR. PERRI: No, your Honor, this is not  
9 discoverable. This is from the Court's request that it  
10 was about the aided case, non-criminal matter that was  
11 in the Rockville Centre Police Department's computer  
12 system.

13 In speaking further with Sergeant Beddi this  
14 morning of the Rockville Centre Police Department this  
15 morning in explaining the Court's request, when the  
16 question of whether or not there were other records  
17 regarding Sarita Johnson, the sergeant did agree if  
18 there were dispositions in favor of Sarita Johnson, such  
19 as an ACOD or a sealed violation, that those records  
20 would be sealed. They would not appear on their  
21 computer and short of the Court granting an unsealing  
22 order, the People do not believe that they are  
23 accessible, if they do exist. But that is the only  
24 record of Sarita Johnson in the Rockville Centre Police  
25 Department's computer system for an aided case.

1 THE COURT: Okay. The Court will mark that  
2 Court exhibit next in order.

3 THE CLERK: Court Exhibit VIII.

4 THE COURT: Mr. Zerner, in that inquiry, the  
5 Court's reviewed the documents provided by the assistant  
6 district attorney. It indicates that the only record  
7 showing from the Rockville Centre Police Department was  
8 an aided person case, a sick person essentially who was  
9 Sarita Johnson.

10 MR. PERRI: Your Honor, if I could just be  
11 heard very briefly before calling the jury in. Although  
12 the People understand your rulings with respect to the  
13 objections yesterday, the People want to make a very  
14 brief record.

15 Over the People's objection the Court allowed  
16 defense counsel to question Sarita Johnson specifically  
17 about who the fathers were of each of her children,  
18 whether she had lived with them or not, whether she had  
19 been married to them or not.

20 THE COURT: The Court's recollection is that  
21 the Court sustained one objection and counsel rephrased  
22 his questions and there was no objections to those  
23 questions.

24 THE COURT: But speaking of the line of  
25 questioning, what's your record?

1 MR. PERRI: Your Honor, the People  
2 specifically objected to her being questioned about  
3 welfare and food stamps and whether her partner was  
4 married, the father of one of the children. The Court  
5 did overrule those objections.

6 The People's position would be none of these  
7 questions are probative. They are not bad acts. They  
8 are not criminal in nature. They do not show a  
9 willingness to put her needs above those of society.  
10 They do not reflect upon her credibility to give  
11 testimony. They are extremely collateral to anything  
12 going on in this case.

13 And the People, under the First Department  
14 case, People versus Ruiz, 18 A.D.3d 220 would ask the  
15 Court to curtail and limit such questioning and such  
16 lines of questioning. In that case the Court stated  
17 that the defendant's theory of the evidence that the  
18 interconnected family relationships tended to establish  
19 a motive for the child victim in the child physical  
20 abuse case to manufacture testimony was remote and  
21 speculative and they did not allow the defense attorney  
22 in that case to engage in such questioning.

23 The People wanted to put their reasons for the  
24 objection on the record, your Honor.

25 THE COURT: Thank you.

1                   Mr. Zerner, you have any reply, since we're  
2 making a record?

3                   MR. ZERNER: Sure, very briefly, your Honor.

4                   On the new Court exhibit, I will have the  
5 opportunity to review that at some point?

6                   THE COURT: No. It's an aided case response,  
7 that's it.

8                   MR. ZERNER: Just wanted to know what the  
9 situation was with that.

10                   With regards to that situation, again, my  
11 concern is I'm not sure why the prosecutor continues  
12 making these circular arguments that I didn't find  
13 anything and if there was something, then it had to have  
14 been dismissed because I keep finding new things and  
15 keep putting it in front of Mr. Perri and the Court.

16                   Regardless of that, your Honor, with the  
17 second issue that Mr. Perri is bringing up now, again,  
18 on direct examination he asked various questions about  
19 the household; who lives there, who used to live there,  
20 who lives there now and obviously the household is  
21 probative of what was going on and how it was going on  
22 and I fully anticipate asking more questions about that  
23 and I thank your Honor for allowing that line of  
24 questioning.

25                   THE COURT: The Court will make its rulings as



1 questions come up and objections are raised. I'll leave  
2 it at that. Can we bring in the jury?

3 Before the jury comes in, we have an issue  
4 with a juror. It seems to have been forgotten with all  
5 the other issues that counsel wished to raise. Juror  
6 number nine called yesterday finally, said he was  
7 engaged in his duties as the certified rigger foreperson  
8 at Madison Square Garden, that he had a load-in, if you  
9 will, to set a stage for Mr. West. I asked who Mr. West  
10 was. He said Mr. Kanye West, his fashion show at  
11 Madison Square Garden. He was the only person qualified  
12 to run that setting of the stage based on his  
13 certification as a rigger.

14 The chambers and the Court called both  
15 counsel. We spoke on a conference call. Both counsel  
16 agreed that the trial should not be delayed any longer,  
17 that Mr. Pierre, juror number nine, should be excused.  
18 Is that correct, People?

19 MR. PERRI: Yes, your Honor.

20 THE COURT: Mr. Zerner?

21 MR. ZERNER: That is correct, your Honor.

22 THE COURT: Very good. So we'll substitute in  
23 alternate juror number one for Mr. Pierre and she'll  
24 become juror number nine.

25 (Whereupon, the jury entered the courtroom.)

1 THE CLERK: Let the record reflect the  
2 presence of the jury minus juror number ten.

3 THE COURT: I thought he was number nine. It  
4 would be juror number ten, Mr. Pierre.

5 So, ladies and gentlemen, you see once again  
6 we're missing one of the jurors. For reasons that don't  
7 concern you and have no bearing on the trial, Mr. Pierre  
8 will no longer be able to serve as a juror in this case.  
9 So, he's been excused and, Ms. Trotta, you will take  
10 your spot as a sitting juror number ten.

11 You can move over to alternate number one  
12 spot, Ms. Quigley.

13 So, welcome all again and we'll continue with  
14 the questioning of Ms. Johnson by Mr. Zerner.

15 S A R I T A J O H N S O N, residing in the County of  
16 Nassau, having been previously called as a witness  
17 on behalf of the People, having been previously  
18 duly sworn by the Clerk of the Court, was examined and  
19 testified further as follows:

20 THE COURT: Mr. Zerner, your witness, please.

21 MR. ZERNER: Thank you, your Honor.

22 CROSS-EXAMINATION

23 BY MR. ZERNER:

24 Q. Good morning, Ms. Johnson.

25 A. Good morning.

1 Q. Ms. Johnson, you told us earlier when you testified  
2 a few days ago that your daughter would regularly go on a  
3 weekend day with Ray Ross into Brooklyn two or three times a  
4 month. Do you remember talking about that?

5 A. Yes, I do.

6 Q. And those trips were never overnight trips,  
7 correct?

8 A. No.

9 Q. And were those trips generally on Saturdays?

10 A. Yes.

11 Q. But they weren't every Saturday, right?

12 A. Two to three times a month. No, not every  
13 Saturday.

14 Q. And there are four or five Saturdays in a month,  
15 right?

16 A. Yes.

17 Q. So it wasn't every Saturday, right?

18 A. No.

19 Q. How often did your daughter have her hair done?

20 MR. PERRI: Objection.

21 THE COURT: Sustained. Give it a time frame,  
22 Mr. Zerner, please.

23 Q. Is it accurate to say that your daughter had her  
24 hair styled approximately every other week?

25 THE COURT: During what time frame, sir?

1 MR. ZERNER: During the time frame she  
2 testified to.

3 Q. About May 2013 to June 2014 your daughter typically  
4 had her hair done two or three times a month, correct?

5 MR. PERRI: Objection.

6 THE COURT: Overruled.

7 If you know, ma'am.

8 A. I'm not certain.

9 Q. Who would style your daughter's hair?

10 A. I would style her hair.

11 Q. Were you the only one who styled her hair?

12 A. No.

13 Q. Who else would style her hair?

14 A. She had her hair styled by Paula Ross on occasion,  
15 maybe once or twice. Not every week of every month, no.

16 Q. Right, but maybe once or twice a month, correct?

17 A. I can't even recall that. I can't say like an  
18 ongoing period. I could say once. I could say sporadically,  
19 twice. I can't say.

20 Q. Twice altogether or twice a month?

21 A. Honestly, I don't know and I can't say that I know.  
22 She has done her hair, I can't say how many times.

23 Q. But more than twice Paula Ross has styled your  
24 daughter's hair; is that fair to say?

25 A. I could say at least twice, that I can say, at

1 least twice.

2 Q. But it might be more than twice, correct?

3 MR. PERRI: Objection.

4 THE COURT: Sustained. Move on, Mr. Zerner.

5 Q. Now, Paula Ross would also style other people's  
6 hair in the household, correct?

7 MR. PERRI: Objection.

8 THE COURT: Sustained.

9 Q. Did Paula Ross ever offer to style your hair?

10 A. No.

11 Q. You wear wigs from time to time, correct?

12 MR. PERRI: Objection.

13 THE COURT: Sustained.

14 Q. Did Paula Ross style your daughter's hair,  
15 Millinia's hair prior to the talent show that we talked about  
16 in the spring of 2013, if you remember?

17 A. I can't be certain.

18 Q. It was a special occasion though, right?

19 A. Yes, it was.

20 Q. Did you ever personally take Millinia to a hair  
21 stylist in your neighborhood?

22 MR. PERRI: Objection.

23 THE COURT: Sustained.

24 Q. Now, these trips that your daughter would take to  
25 Brooklyn, first of all, about what time would she leave your

1 house to go to Brooklyn?

2 A. Early afternoon, late afternoon. It was daytime.

3 Q. And about what time would she return?

4 A. Nine on average.

5 Q. Would you be there?

6 A. Maybe, approximately.

7 Q. Would you be there when she departed?

8 A. Usually I would, but I can't be certain every  
9 single time.

10 Q. Would you be there on a general basis when she  
11 would return?

12 A. Yes.

13 Q. So would you speak with Ray and Tara about the  
14 plan, that they were going into Brooklyn?

15 A. Yes. When Millinia would ask me if she could go  
16 with them, generally it was with his daughter. His daughter  
17 or they were going to an event, like maybe an amusement park  
18 or to the museum. It was to an event or his daughter was  
19 going to be there.

20 Q. So you knew on Saturday morning that late morning  
21 or early afternoon your daughter would be going two or three  
22 times a month with a combination of Ray, Tara, Ray's  
23 daughters to an event, correct?

24 A. Okay, so you are saying did I pre know these  
25 events?

1 Q. That's what I'm asking, did you know before they  
2 left that they were leaving?

3 A. Yes.

4 Q. It wasn't a surprise that your daughter was gone,  
5 correct?

6 A. On most occasions, no, no, it wasn't.

7 Q. And she was going somewhere that you knew where she  
8 was going and it was somewhere you approved of, correct?

9 A. On most occasions, yes.

10 Q. Did you ever offer Ray or Tara money to subsidize  
11 the cost of these trips?

12 A. On occasion I would give Millinia money.

13 Q. On occasion you gave it to Millinia, but not to Ray  
14 or Tara, correct?

15 A. No. They said it was okay. No one said that to  
16 me, no.

17 Q. No one ever asked you for money, right?

18 A. No.

19 Q. They were offering to take your daughter to museums  
20 and amusement parks and you were happy about that, right?

21 A. Millinia asked me, she said she wanted to go and I  
22 approved it.

23 Q. And most of the time they returned home around  
24 dinnertime on Saturday night, correct?

25 A. Yes.

1 Q. Now, you spoke yesterday, two days ago now, you  
2 spoke that there was an allegation that Ray was doing things  
3 to your daughter in a parking lot at Western Beef or at  
4 National Wholesale Liquidators. Do you remember talking  
5 about that?

6 MR. PERRI: Objection.

7 THE COURT: Overruled.

8 Q. Do you remember talking about that, ma'am?

9 A. I didn't discuss that with you.

10 Q. Right, but when Mr. Perri asked you questions on  
11 Tuesday, Mr. Perri asked you questions and you answered them,  
12 right?

13 A. Yes.

14 Q. So you remember talking about that, right?

15 A. Yes.

16 Q. And now I'm asking you questions about it and my  
17 first question about that is do you remember talking about  
18 that?

19 THE COURT: Sustained. She answered the  
20 question yes, she remembers talking about it. Next  
21 question.

22 Q. So did you ever personally witness any of these  
23 things going on between Ray and Millinia?

24 A. No.

25 Q. Did you ask your sister about these incidents?



1 MR. PERRI: Objection.

2 THE COURT: No, overruled.

3 Q. Did you talk to your sister, Tara Johnson about  
4 these incidents?

5 A. No.

6 Q. Never?

7 A. I don't remember. I don't recall.

8 Q. So an allegation came up you say in August of 2014  
9 that your sister's long-term paramour was having illicit  
10 relations with your daughter and you never asked your sister  
11 Tara about that, that's your testimony?

12 A. I never asked her about that. I don't recall. I  
13 don't remember. I took action, that I definitely recall.  
14 When I felt that there was foul play, I took action.

15 Q. But you personally never witnessed this foul play,  
16 correct?

17 A. No.

18 Q. Now, your testimony on Tuesday was that in August  
19 of 2014 you went to the district attorney's office to talk  
20 about this, correct?

21 A. Yes.

22 Q. And you spoke to an ADA Warren Thurer?

23 A. Yes.

24 Q. And Warren Thurer took your complaints in the next  
25 building over at 262 Old Country Road?

1 A. Yes, yes, he did.

2 THE COURT: Hold it, Mr. Zerner.

3 Ms. Johnson, please let Mr. Zerner finish his  
4 question and then you answer.

5 THE WITNESS: Okay.

6 THE COURT: Mr. Zerner, please let Ms. Johnson  
7 finish her answer and then you can ask your next  
8 question.

9 MR. ZERNER: Thank you, your Honor.

10 Q. When you went to speak to ADA Thurer, who directed  
11 you to speak to him?

12 A. I took action myself. I did my own research.

13 Q. So you walked into 262 Old Country Road and how did  
14 you know where to go and who to speak with?

15 A. I did my own research.

16 Q. So when you walked into the building and went  
17 through the metal detector, how did you know what office to  
18 go to, what floor in the building to go to?

19 MR. PERRI: Objection.

20 THE COURT: Sustained.

21 Q. At some point you got to the district attorney's  
22 office at 262 Old Country Road, correct?

23 A. Yes.

24 Q. And there was a waiting area and you asked to speak  
25 to an assistant district attorney?

1 A. Yes, I did.

2 Q. And at some point somebody came out and introduced  
3 himself as Assistant District Attorney Warren Thurer?

4 A. Yes.

5 Q. And then you spoke with him?

6 A. Yes.

7 Q. Was your daughter Millinia with you when you had  
8 this conversation?

9 A. Yes, yes, she was.

10 Q. She was with you that day?

11 A. Yes.

12 Q. And did Mr. Thurer take notes when he spoke with  
13 you?

14 A. I can't be certain.

15 Q. Who else was in the room with you besides your  
16 daughter and Mr. Thurer?

17 A. I can't be certain.

18 Q. Well, thinking back on it, there were three people  
19 in the room or more than three people in the room?

20 A. I can't be certain.

21 Q. Do you remember if you spoke in an office or in a  
22 conference room or somewhere else?

23 A. I spoke in an office. In his office.

24 Q. So there was a desk and had it had Mr. Thurer's  
25 name on it?

1 A. Yes, it did.

2 Q. Was there a victim's advocate in the room?

3 A. I can't be certain.

4 Q. Did you ask Mr. Thurer if he had dealt with these  
5 types of cases before?

6 MR. PERRI: Objection.

7 THE COURT: Sustained.

8 Q. So Mr. Thurer may or may not have taken notes and  
9 did he ask your daughter to sign anything?

10 A. Yes.

11 Q. You remember a document being shown to your  
12 daughter and Mr. Thurer said please sign here?

13 A. Yes.

14 Q. And did you also sign that document?

15 A. I can't be certain.

16 Q. Have you seen that document again?

17 A. Yes.

18 Q. When did you see it?

19 A. Yes, I have, when I filled it out. I have a copy  
20 of it.

21 Q. So this was in August of 2014, right?

22 A. Yes.

23 Q. And have you seen it since then?

24 A. (No verbal response.)

25 Q. Please answer the question, ma'am.

1 A. Yes.

2 Q. When?

3 A. I have a copy of it.

4 Q. So have you reviewed it many times since you  
5 received it?

6 A. Yes, I have.

7 Q. When you left the DA's office in August 2014, they  
8 gave you a copy of the statement?

9 A. Yes.

10 Q. And it was signed by you and your daughter?

11 A. Yes.

12 Q. What did you do with that statement?

13 THE COURT: The document. I don't know if  
14 it's a statement.

15 MR. ZERNER: You are right, your Honor, let me  
16 break that down. Thank you, your Honor.

17 Q. Was it a one-page statement?

18 A. Yes.

19 THE COURT: Is it a document? We haven't  
20 established that there was any statement. It was a  
21 document.

22 Q. So there was a one page piece of paper that was  
23 filled out and signed by yourself and your daughter; is that  
24 fair to say?

25 A. Yes.

1 Q. And was there a recitation of this allegation of  
2 what you were talking about?

3 MR. PERRI: Objection.

4 THE COURT: Sustained as to the form of the  
5 question.

6 Q. What was on this document?

7 A. It was a statement, the original one, because there  
8 were two.

9 Q. Right. We're talking about August of 2014. Let's  
10 focus on that. There was a one page piece of paper?

11 THE COURT: Remember my instruction, a  
12 question is asked and then it's answered, right?

13 THE WITNESS: Yes.

14 THE COURT: After it's  
15 answered, the next question is posed. We can't have it  
16 all at once because the court reporter can't take it  
17 down and there will be no record of what's being said in  
18 Court. So, please be patient, each of you.

19 Next question.

20 Q. Focusing on August of 2014 and the meeting you had  
21 with ADA Thurer, you left that meeting with a one page piece  
22 of paper, yes or no?

23 A. Yes.

24 Q. What was on that piece of paper?

25 A. It was a complaint about the defendant.

1 Q. Okay, thank you.

2 Now, you took that piece of paper and went home  
3 with it, correct?

4 A. Yes.

5 Q. Did you show that piece of paper to your sister?

6 A. No.

7 Q. Did you show that piece of paper to Mr. Ross?

8 A. No.

9 Q. They were both still living in that same location  
10 at 301 Coventry Drive North, right?

11 A. Yes.

12 Q. So in August of 2014 you all still lived in this  
13 location. Same thing in September of 2014; is that fair to  
14 say?

15 A. Yes.

16 Q. Now, in October of 2014 you were all still living  
17 in that location, right?

18 A. Of October?

19 Q. Yeah. Let's talk about the first half of October,  
20 from October 1st to October 16th you were all still living in  
21 the same location, correct?

22 A. Yes.

23 Q. Now, in those two-and-a-half months from early  
24 August of 2014 until the middle of October of 2014, had you  
25 spoken to ADA Thurer?

1 A. Yes.

2 Q. How many times?

3 A. Twice.

4 Q. In person or on the phone?

5 A. In person.

6 Q. So after the first meeting when this document was  
7 prepared, you had another meeting?

8 A. Yes.

9 Q. Also at 262 Old Country Road?

10 A. Yes, I did.

11 Q. Do you remember the approximate month and day it  
12 happened?

13 A. October.

14 Q. October of 2014?

15 A. Yes.

16 Q. You came back and spoke to ADA Thurer again,  
17 correct?

18 A. Yes, I did.

19 Q. Did you make an appointment ahead of time?

20 A. I can't be certain.

21 Q. You had his contact information, right?

22 A. Yes.

23 Q. So before walking in, did you call him and tell him  
24 you were coming in?

25 A. I can't be certain.



1 Q. Were you pleased with the action that the district  
2 attorney's office had taken from early August until  
3 mid-October?

4 A. I have no thoughts about it. I did what I came to  
5 do and it was done.

6 Q. So now in October of 2014 Ray Ross moved out of the  
7 home, yes or no?

8 A. Yes.

9 Q. Now, were there any police, detectives, any of  
10 those officials that spoke to you or your daughter between  
11 August of 2014 and let's say the end of November of 2014, yes  
12 or no?

13 THE WITNESS: Excuse me, Judge, is it fair to  
14 say if someone voluntarily moved?

15 MR. ZERNER: Your Honor.

16 THE COURT: Excuse me, Mr. Zerner.

17 Ma'am, you can't offer any type of comments,  
18 okay?

19 THE WITNESS: Okay.

20 THE COURT: What you have to do is simply  
21 answer the questions of Mr. Zerner and then you will  
22 have the opportunity, if Mr. Perri decides, to answer  
23 further questions.

24 THE WITNESS: Okay.

25 THE COURT: So just answer the question.

1 THE WITNESS: Sure, thank you.

2 THE COURT: Can you repeat the question?

3 Q. Can you answer the question, ma'am?

4 THE COURT: Hold it. Can I have the court  
5 reporter please read back the last question.

6 (Whereupon, the penultimate question was read  
7 back by the reporter.)

8 THE COURT: Can you answer that question,  
9 ma'am?

10 THE WITNESS: Can she repeat it?

11 THE COURT: Did any law enforcement officials  
12 speak to you between August of 2014 and November of  
13 2014?

14 THE WITNESS: I'm sorry, I can't recollect  
15 exactly the dates.

16 BY MR. ZERNER:

17 Q. So the answer is you don't remember?

18 A. Yes.

19 Q. Yes, you don't remember?

20 A. Yes, I did speak to law enforcement.

21 Q. What member -- I'm not talking about the district  
22 attorney's office, I'm talking about the police department of  
23 Nassau County. Who from Nassau County Police Department did  
24 you speak to between August and November of 2014?

25 A. Detective Toussaint, Nassau County Police

1 Department.

2 Q. Now, we have a statement from Detective Toussaint  
3 dated December 10, 2014. Are you saying that you spoke to  
4 him before December 10th of 2014?

5 A. Yes, I spoke to him on the phone to set up a  
6 meeting.

7 Q. So you spoke to him on the phone. How did you know  
8 to speak to Detective Rhubens Toussaint?

9 A. I was assigned -- a letter came in the mail that we  
10 would speak together and someone would be in contact with me.

11 Q. So how was it determined where you would speak face  
12 to face with Detective Toussaint?

13 A. I spoke to him over the phone.

14 Q. Right. And during that phone conversation you  
15 discussed where and when you would meet?

16 A. Yes.

17 Q. And how was it determined where and when you would  
18 actually meet?

19 MR. PERRI: Objection.

20 THE COURT: Sustained.

21 They discussed on the phone where and when  
22 they would meet.

23 Q. Did the detective offer to come to your house to  
24 have this conversation?

25 A. Yes.

1 Q. And you were happy to have him come to your home?

2 A. Yes, I was.

3 Q. When he came to your home, did he come in a marked  
4 squad car or in a plain unmarked car?

5 A. Unmarked car.

6 Q. And did he come alone or with other personnel?

7 A. Alone.

8 Q. And what time of day did he come?

9 A. Afternoon.

10 Q. Was it still light out?

11 A. Yes, it was.

12 Q. Now, we're talking about December 10th. You are  
13 sure it was still light out when he got there?

14 THE COURT: I don't know if we're talking  
15 about December 10th, Mr. Zerner. That's assuming a fact  
16 that is not yet in evidence.

17 MR. ZERNER: I'll withdraw that question and  
18 ask another one.

19 Q. Is it fair to say you spoke to Detective Toussaint  
20 at your home on December 10, 2014?

21 A. Yes.

22 Q. Where did you speak to him in your home?

23 A. He came to my home. I didn't speak to him in my  
24 home.

25 Q. Where did you speak to him?

1 A. In his car.

2 Q. Why did you speak to him in his car?

3 MR. PERRI: Objection.

4 THE COURT: Overruled.

5 A. For our safety and we didn't want to be in the  
6 neighborhood like right in front of my house. We didn't want  
7 any -- just anyone looking around. Just to be safe we  
8 decided that would be the best.

9 Q. You said a detective came to your home in an  
10 unmarked police car, correct?

11 A. Yes.

12 Q. And he was wearing a suit and tie, not a police  
13 uniform, correct?

14 A. Yes.

15 Q. And he knocked on your door and came in?

16 A. I came outside.

17 Q. How did you know he was physically there?

18 A. I met him in the car. I saw him with my two eyes.

19 Q. Let me ask the question.

20 THE COURT: Hold it, Mr. Zerner.

21 Have you finished your answer, ma'am, with  
22 regard to how you met Detective Toussaint when he came  
23 to your home?

24 THE WITNESS: Yes.

25 Q. Did he call you and tell you he was on his way

1 there?

2 A. Yes.

3 Q. Did you tell him I would prefer you not walk up to  
4 my door and knock on the door or ring the bell?

5 A. I saw him and I went outside.

6 Q. So is it fair to say you were looking out the front  
7 window or the window of the door waiting for him to arrive?

8 A. Yes.

9 Q. Was your daughter home?

10 A. Yes.

11 Q. Was she similarly waiting with you looking out the  
12 window?

13 A. Yes, she was.

14 Q. For how long were you looking out the window  
15 waiting for Detective Toussaint?

16 MR. PERRI: Objection.

17 THE COURT: Sustained.

18 Q. So Detective Toussaint arrived, you saw an unmarked  
19 police car. Did he pull into your driveway or in front of  
20 your home?

21 A. He was on the street.

22 Q. So you stepped out of your home along with your  
23 daughter?

24 A. Yes.

25 Q. And entered the police car?

1 A. Yes.

2 Q. It was an unmarked police car, right?

3 A. Yes.

4 Q. And it was Detective Toussaint by himself, correct?

5 A. Yes.

6 Q. Where in the police car did you sit?

7 A. I sat in the front seat.

8 Q. Where in the police car did your daughter sit?

9 A. In the back seat.

10 Q. And what did you tell Detective Toussaint to do at  
11 that point?

12 A. Can you clarify to do?

13 Q. You told Detective Toussaint that you didn't want  
14 to have this conversation in your home; is that fair to say?

15 A. That discussion never came up. We had a meeting  
16 and I came out to the car, that's it.

17 Q. Well, was there a meeting before you came out to  
18 the car?

19 A. No.

20 Q. So the first time you saw Detective Toussaint eye  
21 to eye was when he pulled up to your home, correct?

22 A. Yes.

23 Q. You saw a car pull up that you assumed was the  
24 detective, right, yes or no?

25 A. Okay, yes.

1 Q. You and your daughter exited your home and got into  
2 the car, correct?

3 A. Yes.

4 Q. And at that point in time you told him we're going  
5 to have a conversation but not in my home, correct?

6 A. I didn't use those words.

7 Q. Tell us the words you used, ma'am.

8 A. I didn't say that. I introduced myself and we  
9 continued on with the matter that we came to meet for.

10 Q. Did Detective Toussaint ask you where you would  
11 like to have this conversation?

12 A. I told him that I would be more comfortable down  
13 the road.

14 Q. So where did you go?

15 A. Down the street on my block.

16 Q. Now, your street actually is right next to  
17 Hempstead Lake State Park, correct, right next to it?

18 A. It's in the proximity, some blocks away.

19 Q. If you went to the eastern end of your street, the  
20 street curves around and on the other side of that is  
21 Hempstead Lake State Park, correct?

22 A. Yes, it is.

23 Q. So when you and your daughter were in the squad --  
24 not the squad car, but the unmarked car with Detective  
25 Toussaint, how far away from your home did you drive?



1 A. Up the street.

2 Q. Up the street a tenth of a mile, a mile?

3 A. Not even a tenth of a mile, a few feet up. A few  
4 feet up from my house.

5 Q. Did Detective Toussaint offer to go with you to his  
6 police precinct?

7 A. I can't be certain.

8 Q. But you preferred to have this conversation in the  
9 car down the block from your home, correct?

10 A. Yes.

11 Q. That was your decision, right?

12 A. Yes.

13 Q. So now you had a conversation with Detective  
14 Toussaint and he took notes when he was having this  
15 conversation, right?

16 A. I can't be certain.

17 Q. Did your daughter have an opportunity to speak with  
18 Detective Toussaint directly?

19 A. Yes, she did.

20 Q. That was in front of you, correct?

21 A. Yes.

22 Q. Did Detective Toussaint ever ask you to exit the  
23 vehicle so he could speak alone with your daughter?

24 A. No.

25 Q. So the three of you were together the entire time?

1 A. Yes.

2 Q. And he took notes as you were speaking, right?

3 A. Yes.

4 Q. And then at some point there was a document that  
5 was typed up, correct?

6 A. Not in my presence. I don't know about -- no.

7 Q. At some point you were asked to sign a document,  
8 right?

9 A. Yes.

10 Q. And that document was typed?

11 A. I can't be certain.

12 MR. ZERNER: If this could be marked as  
13 defense Exhibit A, perhaps this will refresh the  
14 recollection of the witness.

15 THE COURT: Please mark it Defense Exhibit A  
16 for identification.

17 (Whereupon, Defendant's Exhibit A was. marked  
18 for identification, only.)

19 COURT OFFICER: Defense A marked for ID.

20 THE COURT: You wish the witness to see it?

21 MR. ZERNER: Yes, your Honor.

22 (Handed to witness.)

23 THE COURT: Ms. Johnson, please take a look at  
24 that and once you have finished reviewing it, please  
25 look up.

1 THE WITNESS: Okay.

2 (Pause in the proceedings.)

3 THE WITNESS: Yes.

4 THE COURT: Mr. Zerner.

5 MR. ZERNER: Thank you.

6 Q. So after reviewing Defense Exhibit A, does that  
7 refresh your recollection of actually reviewing a document  
8 that was prepared by Detective Toussaint?

9 A. Yes.

10 Q. And you did sign the bottom of that document,  
11 correct?

12 A. Yes, I did.

13 MR. ZERNER: I would offer that into evidence  
14 at this time.

15 MR. PERRI: Objection.

16 THE COURT: Sustained.

17 Q. Now, Ms. Johnson, when you were speaking with  
18 Detective Toussaint, he didn't have a typewriter with him,  
19 correct?

20 A. No.

21 Q. And was there a computer in the police vehicle?

22 A. I can't be certain.

23 Q. Well, did you see him print out any documents?

24 A. No.

25 Q. But at some point the document I just showed you,

1 Defense Exhibit A, was shown to you, correct?

2 A. Yes.

3 Q. Where was it shown to you?

4 A. In the vehicle when we met.

5 Q. So is it your testimony that this document was  
6 prepared before you met Detective Toussaint for the first  
7 time?

8 A. No, I can't say that.

9 Q. Well, you told us before that the first time you  
10 had ever laid eyes on Detective Toussaint was when he came to  
11 your home and you exited your home and spoke to him in the  
12 vehicle, right?

13 A. Yes.

14 Q. And it wasn't at that time that he showed you this  
15 document or was it?

16 A. I met with Detective Toussaint on more than one  
17 occasion.

18 Q. Well, did you ever meet with Detective Toussaint  
19 without your daughter?

20 A. I can't be certain.

21 Q. How many times did you meet with Detective  
22 Toussaint?

23 A. At least two to three times, at least.

24 Q. Let's break it down. You said it was more than  
25 once, correct?

1 A. Yes.

2 Q. You are sure about that?

3 A. Absolutely.

4 Q. So you met with him at least two times?

5 A. Uh-huh.

6 Q. Yes?

7 A. Yes.

8 Q. One of the times was outside of your home down the  
9 street in the vehicle, right?

10 A. Yes.

11 Q. Where and when was the other time?

12 A. Again, in the car down the street from my home.

13 Q. And was that also within the same month?

14 THE COURT: Same month of the first time?

15 Q. Was it within 30 days of the first time?

16 A. I couldn't be certain of the date.

17 Q. On that second occasion were both you and your  
18 daughter in the vehicle with him?

19 A. Yes.

20 Q. And on that second occasion was Detective Toussaint  
21 there alone or were there other police personnel with him?

22 A. Alone.

23 Q. So both times he came and spoke to you and your  
24 then 13-year-old daughter without any other female police  
25 officer or female staff, correct?

1 A. No.

2 Q. It's not correct?

3 A. Yes, yes, that is correct.

4 Q. So again, it's just the three of you; you,  
5 Detective Toussaint, yourself and your daughter, correct?

6 A. Yes.

7 Q. And on the second occasion he showed you the  
8 statement and asked you to sign it?

9 A. Yes.

10 Q. He said to you if there are any mistakes in here,  
11 anything you want to correct, you would have the opportunity  
12 to correct it?

13 A. No, he didn't say that.

14 Q. He didn't say that.

15 Did he say that to you in front of your daughter?

16 MR. PERRI: Objection.

17 MR. ZERNER: I'll withdraw and rephrase.

18 Q. He showed you this document and said please read it  
19 and if it's correct, sign it?

20 A. I don't know what was said. I can't be certain,  
21 but I viewed it and I signed it.

22 Q. And who signed it first, you or your daughter?

23 A. I can't be certain.

24 Q. But you both signed it back to back with each other  
25 in that vehicle?

1 A. Yes.

2 Q. One of you signed it and then the other one signed  
3 it?

4 A. Yes.

5 Q. You don't know who signed it first?

6 A. I don't. I cannot be certain.

7 Q. Do you remember your daughter reading this  
8 document?

9 A. Yes, I do.

10 Q. Was she upset by it?

11 A. Yes.

12 Q. Was she crying?

13 A. Yes.

14 Q. Did Detective Toussaint ever say to her, just sign  
15 the document?

16 A. No.

17 Q. No.

18 He gave her time to review it?

19 A. Yes, he did.

20 Q. And again, you don't remember who signed it first,  
21 you or your daughter?

22 A. Yes.

23 Q. Do you remember Detective Toussaint stamping a  
24 stamp on there talking about that if there are any lies in  
25 here, they are punishable by perjury?

1 A. I can't be certain.

2 Q. Did you read the top of the document that states  
3 any false statement is punishable by perjury?

4 A. Yes.

5 Q. You do remember that?

6 A. Actually, I can't be certain.

7 Q. So you don't remember?

8 A. I can't be certain.

9 Q. But it's your testimony that Detective Toussaint  
10 showed up with this document and it was already typed on the  
11 document 12/10/2014 1830 hours, right?

12 A. On the second visit.

13 Q. So on the second visit it was already typed?

14 A. For the second visit, yes.

15 Q. It wasn't typed in the car, right?

16 A. No.

17 Q. It was already prepared, right?

18 A. Yes.

19 Q. And again, at that point in time, December 10,  
20 2014, Ray Ross was no longer living in that home, right?

21 A. What date?

22 Q. December 10, 2014.

23 A. No.

24 Q. But your sister was still living there, right?

25 A. Yes.



1 Q. And one of your sister's children?

2 A. Yes.

3 Q. Now, there was only one television in the home,  
4 right?

5 A. Uh-huh.

6 Q. Yes?

7 A. Yes.

8 Q. That television was in the room shared by Tara and  
9 Ray?

10 A. Yes.

11 Q. And there were approximately 12 people living in  
12 the home?

13 A. Twelve? Approximately I guess. Hold it. Let me  
14 see. Not at that time, no.

15 Q. Let's focus -- forget about December of 2014.  
16 Let's focus on May of 2014. In May of 2014 is it fair to say  
17 at 301 Coventry Road North you were living there with your  
18 four children, correct?

19 A. Yes.

20 Q. That's five, right?

21 A. Okay.

22 Q. Ray and Tara makes seven, right?

23 A. Uh-huh.

24 Q. Yes? You have to say yes or no.

25 A. Yes.

1 Q. One of Tara's children, right?

2 A. Uh-huh.

3 Q. Yes?

4 A. Yes.

5 Q. And that makes eight.

6 A. Yes.

7 Q. Were there any nieces or nephews living there at  
8 that time?

9 A. I can't be certain at that time.

10 Q. Fair to say that there were at least eight people  
11 living in the home, right?

12 A. Yes.

13 Q. There was one television, right?

14 A. Yes.

15 Q. Is it fair to say that forgetting about your own  
16 desires to watch TV, other people in the home liked to watch  
17 TV also, correct?

18 MR. PERRI: Objection.

19 THE COURT: Sustained.

20 Q. Do you know if your son ever watched TV in his Aunt  
21 Tara's room?

22 A. No.

23 Q. You don't know?

24 A. No, I don't know.

25 Q. You don't know.

1                   And your other children, do you know if they ever  
2 watched television?

3                   THE COURT:   In Tara's room?

4                   MR. ZERNER:   The one television that was in  
5 the home, which was in Tara's room.

6                   A.     No.

7                   Q.     You don't know?

8                   A.     I can't say, like, if they ever glanced or ever saw  
9 anything. I can't be 100 percent that they never saw  
10 anything, but not a regular basis.

11                  Q.     Is it fair to say that Tara and Ray allowed other  
12 people living in the home to watch the television in their  
13 room, yes or no?

14                  A.     I guess you could say yes.

15                  THE COURT:   Thank you, ma'am.

16                  Next question.

17                  MR. ZERNER:   Thank you, your Honor.

18                  Q.     Now, the very first cell phone that your daughter  
19 Millinia got was purchased by her father, Ray Mickens?

20                  A.     Yes.

21                  Q.     You do remember that?

22                  A.     Yes.

23                  Q.     Do you remember having a conversation with Ray --  
24 I'm sorry, what's Mr. Mickens' first name?

25                  A.     Rafael.

1 Q. I'm sorry, Rafael. Do you remember having a  
2 conversation with Rafael Mickens about whether your daughter,  
3 the daughter that the two of you shared, about whether she  
4 should get a cell phone and, if so, when it would happen?

5 A. Yes, he did get her a cell phone.

6 Q. Before he got her a cell phone, did the two of you  
7 have a conversation about if your daughter should have a cell  
8 phone?

9 A. If she should have a cell phone? We agreed that  
10 she could have a cell phone.

11 Q. So you did have a conversation with Rafael Mickens,  
12 Millinia's father, and now Millinia would have a cell phone,  
13 right?

14 A. Yes.

15 Q. Do you remember the month and year that  
16 conversation took place?

17 A. The month and year. No, I'm not certain.

18 Q. Now, forgive me, a couple of preliminary questions.  
19 The school that your daughter attended, did that school start  
20 in sixth grade? Was it like sixth, seventh, eighth grade or  
21 did it start in seventh grade, like seventh, eight and ninth  
22 grade?

23 A. Sixth grade.

24 Q. So she graduated from her previous school the end  
25 of fifth grade?

1 A. Yes.

2 Q. Was that the point in time when Rafael Mickens  
3 purchased a cell phone for your daughter?

4 A. Yes.

5 Q. Is it common in your neighborhood at Millinia's  
6 school that many children would get a cell phone when  
7 graduating from that school?

8 THE COURT: Sustained.

9 Next question.

10 Q. To the best of your knowledge, did your daughter  
11 want to have a cell phone?

12 A. Yes.

13 Q. And was she pleased when her father got her a cell  
14 phone?

15 A. Yes.

16 Q. Did you and Rafael discuss who would pay for the  
17 cell phone?

18 A. Yes.

19 Q. Tell us about that discussion, ma'am.

20 A. He said that he would get her a cell phone and  
21 sustain the bill.

22 Q. So he said he would physically get the actual phone  
23 and that he would pay the month to month charges for that?

24 A. Yes.

25 Q. Did he ever ask you to contribute towards that?

1 A. No.

2 Q. So your daughter wanted a cell phone, Rafael said  
3 that he would get it and pay for it and that was okay with  
4 you?

5 A. Yes.

6 Q. So now did you notice your daughter frequently  
7 using that cell phone?

8 A. Frequently using the cell phone. Frequently.

9 Q. I'll rephrase the question.

10 Did you notice your daughter using the cell phone  
11 on a daily basis?

12 A. Yes.

13 Q. Did you have your own cell phone?

14 A. Yes.

15 Q. And who paid for that cell phone?

16 MR. PERRI: Objection.

17 THE COURT: Overruled.

18 Q. Please answer the question.

19 THE COURT: I'll offer that, Mr. Zerner.

20 MR. ZERNER: My apologies, your Honor.

21 THE COURT: You had a cell phone, Ms. Johnson?

22 THE WITNESS: Yes.

23 THE COURT: Who paid the bill for that?

24 THE WITNESS: I did.

25 THE COURT: Next question.

1 Q. Do you have a cell phone now?

2 A. Yes, I do.

3 Q. Who pays for that?

4 A. I do.

5 MR. PERRI: Objection.

6 THE COURT: Overruled.

7 Q. Did the district attorney's office give you any  
8 money towards your cell phone bill, yes or no, ma'am?

9 A. Yes.

10 Q. Your phone had been off recently, right?

11 A. Yes.

12 Q. But the DA paid money and now it's back on, yes or  
13 no?

14 THE COURT: Is your phone active now, ma'am?

15 THE WITNESS: It is active.

16 Q. It is active because the DA paid for the bill, yes  
17 or no, ma'am?

18 A. Not exactly.

19 MR. PERRI: Your Honor, objection at counsel  
20 laughing.

21 THE COURT: Next question. Overruled.

22 Q. Looking back at Rafael Mickens when he first got  
23 his daughter a cell phone, you were okay with that, correct?

24 A. Yes.

25 Q. Did there come a point in time when Mr. Mickens

1 told you that the cost of that cell phone was becoming a  
2 problem for him?

3 A. No.

4 Q. He never told you that?

5 A. No, he did not.

6 Q. But the cell phone was still on, right? There was  
7 never a point in time when Millinia's cell phone was turned  
8 off, right?

9 A. No.

10 Q. Did there come a point in time when you learned  
11 that instead of Rafael Mickens paying for that cell phone,  
12 Ray Ross was paying for that cell phone?

13 A. No.

14 Q. You never learned of that?

15 A. No.

16 Q. Did there come a point in time when you took the  
17 phone away from your daughter?

18 A. When?

19 Q. What month and year did you first take a cell phone  
20 away from your daughter, if you ever did?

21 A. It happened in August.

22 Q. So in August of 2014 you took away your daughter's  
23 cell phone; is that fair to say, yes or no?

24 A. Yes.

25 Q. Now, the phone, itself, did you return it to Rafael



1 Mickens?

2 A. No.

3 Q. What did you do with that physical phone?

4 A. I confiscated it.

5 Q. Right. Did you stick it in a drawer, did you shut  
6 it off, did you personally use it? What did you do with the  
7 cell phone?

8 A. It was off.

9 Q. You powered it off and just let it sit in a drawer?

10 A. I turned it off.

11 THE COURT: Did you keep custody of the phone?

12 THE WITNESS: Yes.

13 THE COURT: After you took it away from  
14 Millinia?

15 THE WITNESS: Yes, I did.

16 THE COURT: Next question.

17 Q. Where did you put it?

18 THE WITNESS: Do I have to answer this?

19 A. In the drawer.

20 Q. In your room?

21 A. Yes.

22 Q. Did you tell your daughter that there was a certain  
23 span of time that she could get the phone back?

24 A. Nope.

25 Q. Was she pleased when you took her phone away from

1 her?

2 A. No.

3 Q. Did she ask you could I get the phone back, please,  
4 mom?

5 A. No.

6 Q. She never asked for the phone back?

7 A. No.

8 Q. Who's Denise Sawyer?

9 A. A neighbor.

10 Q. Do you get along with her?

11 MR. PERRI: Objection.

12 THE COURT: Overruled.

13 A. A neighbor.

14 Q. Right. My question is do you get along with Denise  
15 Sawyer?

16 A. She's a neighbor.

17 THE COURT: You have to answer the question,  
18 ma'am.

19 THE WITNESS: Do I get along with her?

20 THE COURT: Yes, ma'am. Are you friendly with  
21 Ms. Sawyer, your neighbor?

22 THE WITNESS: No, I'm not.

23 THE COURT: Next question.

24 Q. How long has she been your neighbor?

25 A. I don't know. Off and on several years, off and

1 on.

2 Q. When you say off and on, is that because you moved  
3 away from 301 Coventry or because she moved away?

4 A. She moved away.

5 Q. Do you remember when that was?

6 A. Some years periodically. I don't know.

7 Q. But you weren't friends with her, right?

8 A. No.

9 Q. Did there come a point in time when she called  
10 Child Protective Services about you?

11 MR. PERRI: Objection.

12 THE COURT: Ladies and gentlemen, we're  
13 running about an hour now into our day of work so I'm  
14 going to give you a break to take five minutes and  
15 stretch your legs, use the facilities, okay. Remember  
16 my admonitions.

17 (Whereupon, the jury exited the courtroom.)

18 THE COURT: Ms. Johnson, as you know, we're  
19 going to take a break. As you know, you are still  
20 giving testimony, so you can't talk to anybody about  
21 your testimony. So, take a break and relax.

22 THE WITNESS: Thank you.

23 (Whereupon, the witness exited the courtroom.)

24 THE COURT: Mr. Zerner, where were you going  
25 with Ms. Sawyer and her testimony?

1 MR. ZERNER: It's my understanding that she is  
2 a neighbor that lives across the street and is connected  
3 to many of the items both that I have learned about from  
4 speaking with witnesses, as well as what Mr. Perri has  
5 provided.

6 THE COURT: What are you talking about items?

7 MR. ZERNER: Mr. Perri provided an Email a  
8 couple of days ago telling us that there were a few  
9 instances involving Child Protective Services and one of  
10 those items is that there was a very small child found  
11 on the street.

12 THE COURT: Okay, so? And you are asking to  
13 inquire?

14 MR. ZERNER: I'm asking to inquire. I don't  
15 know what she's going to say and I might call Ms. Sawyer  
16 as a witness to rebut what she may or may not testify to  
17 right now.

18 THE COURT: What is the purpose for that line  
19 of questioning?

20 MR. ZERNER: There are several purposes. One  
21 of them is to discuss the credibility of the witness.  
22 Another one of them is to discuss her reputation in the  
23 community. Another one of them is to show that she's  
24 giving testimony that she can't sit in her own home and  
25 speak to a police detective and wants to go down the

1 street. I don't know if she went in front of  
2 Ms. Sawyer's home or she purposefully went away from  
3 Ms. Sawyer's home. I don't know if she thinks  
4 Ms. Sawyer was watching what she had going on or not.

5 Ms. Johnson was quite evasive precisely  
6 whether they went -- whether it was light out or not,  
7 et cetera, et cetera. It was a line of inquiry I didn't  
8 know she was going to talk about, precisely where, in  
9 the car, not in the car, how many conversations she had  
10 with the detective.

11 The prosecutor talked about in his opening, I  
12 believe as well as voir dire, about what might have been  
13 the failure to follow protocol by Detective Toussaint  
14 about speaking with a minor female witness in the way  
15 that he did. These are the areas I'm going to get into,  
16 your Honor.

17 THE COURT: The Court is not going to allow  
18 that line of questioning, invoking Ms. Sawyer and the  
19 CPS records for those purposes. So, I'm going to ask  
20 you to move along that line of questioning.

21 People, you want to put anything on the  
22 record?

23 MR. PERRI: Yes, your Honor. The Email that  
24 defense just explicitly referenced, your Honor ruled on  
25 all of those events, that they were not to be a line of

1 cross-examination at trial. This is the second time  
2 defense counsel has blatantly disregarded your ruling  
3 from prior to trial when the People asked the Court to  
4 limit cross-examination because they are not relevant  
5 bad acts. Defense counsel has now twice done that.

6 THE COURT: With regard to that, the Court had  
7 previously ruled after an in-camera review of the CPS  
8 records that they were not to be disclosed because they  
9 were confidential and the Court found that they had no  
10 relevancy to the issues at trial here to include  
11 exculpating Mr. Ross or to go to the credibility of any  
12 witnesses at trial.

13 The Court also offered, to its surprise the  
14 other day on the record, that the district attorney  
15 would have drafted a memorandum to include those  
16 incidents. That being said, the Court reemphasized that  
17 those records and those incidents and events would not  
18 be subject to any type of inquiry here at trial.  
19 Mr. Zerner, I think you heard that. And now Mr. Perri  
20 is accurate that twice now you have engaged in offering  
21 material to the jury in the form of questions that the  
22 Court had previously ruled was out of bounds.

23 Now, I won't go so far as to say, as the DA  
24 says, that it's intentional, but I tell you now, sir,  
25 you are on notice that if I make a prior ruling with

1 regard to issues or lines of inquiry, I expect those  
2 rules and rulings to be adhered to and if they are not  
3 in the future, then I can presume that it's done  
4 intentionally.

5 MR. ZERNER: Your Honor, just to make the  
6 record clear, it's my understanding that your Honor made  
7 a ruling months ago about Child Protective Services  
8 records dealing directly with Mr. Ross from 2015. That  
9 is not what I'm trying to discuss right now and I will  
10 drop this line of inquiry. I have never tried purposely  
11 to do anything to contradict or counter your rulings,  
12 your Honor.

13 Now, on a different issue, I know I do have  
14 some records from Detective Toussaint that were handed  
15 over by the prosecutor. I believe that there was also a  
16 discussion of handwritten notes that were taken by ADA  
17 Thurer. I have, I believe, a one-page document and an  
18 ECAB report that was taken in. I don't believe I have  
19 any handwritten notes from the ADA. If I do, I expect  
20 them to be turned over. The same thing with Detective  
21 Toussaint.

22 It sounds like, the way it's been described,  
23 there was a phone conversation initially. I do have  
24 handwritten notes from Detective Toussaint. They are  
25 not dated. I don't know if the conversation happened

1 before the first call, between the call and the meeting,  
2 after the meeting, but I would ask your Honor to allow  
3 me to make this inquiry with regards to Detective  
4 Toussaint's time, place, dates and everything else,  
5 because it's clear that this witness is having trouble  
6 remembering things or having trouble being forthright  
7 and answering the whole question. And I anticipate  
8 Detective Toussaint testifying, perhaps today, perhaps  
9 next week, and I will have questions for him about those  
10 same interactions.

11 THE COURT: Okay. I don't know what your  
12 request is.

13 MR. ZERNER: I want notes, handwritten, as  
14 well as typed, if there is anything else.

15 THE COURT: The People are under that  
16 obligation throughout the trial, so, I anticipate that  
17 the People will fulfill that obligation.

18 MR. ZERNER: I anticipate that too, your  
19 Honor, however, it seems now on day six of the trial  
20 there have been many times that I have become aware of  
21 something, asked for it and been told no, you are not  
22 getting it or no, I looked for it, but I can't find  
23 anything and if I could find anything, it wouldn't have  
24 any relevance anyway.

25 THE COURT: Mr. Perri, do you want to respond



1 to the request for Rosario material?

2 MR. PERRI: Your Honor, the People have turned  
3 over Rosario material. The People have turned over the  
4 entire file from the Complaint Bureau, which was not  
5 lengthy and the People turned over the detective's case  
6 jacket. Everything that was contained in the case  
7 jacket was turned over.

8 THE COURT: Thank you.

9 Mr. Zerner, if anything comes out with regard  
10 to your inquiry of Detective Toussaint that there is  
11 something that's out there that hasn't been turned over,  
12 we'll find that out at that time and the Court will deal  
13 with it at that time. But that being said, there is  
14 nothing else for the Court to do. The People have  
15 represented they have turned over everything that they  
16 have under their obligation of Brady, Rosario, Giglio  
17 and any other case law or statute that requires them to  
18 turn over such information.

19 Five-minute break for everyone, particularly  
20 the court reporter so she can have her break as well.

21 (A recess was taken.)

22 THE CLERK: Continued case on trial, People v.  
23 Ray Ross. All parties are present except the jury.  
24 People ready?

25 MR. PERRI: Yes, your Honor.

1 THE CLERK: Counsel ready?

2 MR. ZERNER: We are ready, thank you.

3 MR. PERRI: Your Honor, the People would ask  
4 for a curative instruction with regard to the CPS, that  
5 the jury should not speculate and should disregard it  
6 fully.

7 THE COURT: There was an objection raised on  
8 the question, so I'm going to tell the jury that the  
9 objection was sustained and we're going to move on.

10 MR. PERRI: Yes, your Honor.

11 (Whereupon the witness returned to the witness  
12 stand and the jury entered the courtroom.)

13 THE CLERK: Let the record reflect the  
14 presence of the jury.

15 People ready?

16 MR. PERRI: Yes, your Honor.

17 THE CLERK: Defense ready?

18 MR. ZERNER: We are.

19 THE COURT: Welcome back, ladies and  
20 gentlemen. Before we broke there was a question posed  
21 by counsel and an objection was raised to that question.  
22 That objection was sustained or is sustained and we'll  
23 go to the next question.

24 MR. ZERNER: Thank you, your Honor.

25 BY MR. ZERNER:

1 Q. Now, Ms. Johnson, is it fair to say that you made  
2 the parenting decisions involving Millinia?

3 A. On most occasions, yes.

4 Q. Were there occasions that you looked to Rafael  
5 Mickens for help?

6 A. Definitely with the phone situation.

7 Q. And, again, that phone was owned by Rafael Mickens,  
8 right?

9 A. For Millinia. I can't be certain if he purchased  
10 it for Millinia. It wasn't his phone. It was for Millinia.

11 Q. But he paid the bill for it?

12 A. Yes.

13 Q. To the best of your knowledge?

14 A. Yes.

15 Q. Were you there when he gave her the phone?

16 A. I'm not certain.

17 Q. Did you discuss it with him when you took the phone  
18 away from her?

19 A. No.

20 Q. You didn't discuss that with him?

21 A. No.

22 Q. How often on a monthly basis say would you talk to  
23 Rafael Mickens?

24 MR. PERRI: Objection.

25 THE COURT: No, overruled.

1 A. Sporadically. From time to time.

2 Q. He's active in her life, correct?

3 A. Active as in present?

4 Q. My question is, is Rafael Mickens active in your  
5 mutual daughter's life, yes or no?

6 A. To a degree.

7 Q. Now, to the best of your knowledge -- scratch that.  
8 Is there a house phone at 301 Coventry Road North?

9 A. No.

10 Q. So if Rafael Mickens wanted to speak directly to  
11 his daughter, how would he do that?

12 MR. PERRI: Objection.

13 THE COURT: If you know. Do you know if  
14 Mr. Mickens would call Millinia directly?

15 THE WITNESS: When she had the phone, he  
16 would. When she had that phone, he would.

17 Q. So when you took that phone away from Millinia, is  
18 it fair to say that you cut off --

19 MR. PERRI: Objection.

20 THE COURT: Hold it, sir. Let him finish his  
21 question.

22 Q. Is it fair to say that when you took that phone  
23 away from Millinia, you cut off Rafael's ability to speak to  
24 his daughter?

25 MR. PERRI: Objection.

1 THE COURT: Overruled.

2 A. No.

3 Q. Did you tell Rafael Mickens you were taking the  
4 phone away from your mutual daughter?

5 MR. PERRI: Objection.

6 THE COURT: Overruled.

7 You can answer, ma'am.

8 A. Repeat the question.

9 Q. When you took the phone away from Millinia, did you  
10 tell her father that she no longer had a phone with which to  
11 communicate with him?

12 A. No.

13 Q. Did you ever have a conversation with Rafael  
14 Mickens about that phone?

15 MR. PERRI: Objection.

16 THE COURT: Sustained as to the generality of  
17 the question.

18 Q. In August of 2014 did you tell Rafael Mickens I  
19 took the phone away from our daughter?

20 A. No.

21 Q. Did you offer to return that phone to Rafael  
22 Mickens?

23 A. No.

24 Q. But it was Rafael Mickens' phone, right?

25 MR. PERRI: Objection.

1 THE COURT: Asked and answered. Sustained.

2 Q. Was that your phone?

3 THE COURT: Sustained.

4 MR. ZERNER: I would like this to be marked as  
5 Defense Exhibit B, please, for identification purposes.

6 (Whereupon, Defendant's Exhibit B was marked  
7 for identification, only.)

8 COURT OFFICER: Defense B marked for ID.

9 MR. ZERNER: If that can please be shown to  
10 the witness.

11 (Handed to witness.)

12 Q. Ma'am, have you seen that document before, what's  
13 been marked as Defense Exhibit B for identification purposes?

14 A. Yes.

15 Q. When did you see it last, if you remember?

16 A. I can't say certain. There is a date here.

17 Q. But you answered the question, you can't say  
18 certain the last time you saw it.

19 Is your signature on that form?

20 A. Yes, it is.

21 Q. When you spoke with Detective Toussaint, did he ask  
22 you for the phone?

23 A. When I spoke to him? I voluntarily gave it to him.

24 Q. So in December of 2010 you had a conversation with  
25 Detective Toussaint in his car, yes?

1 A. Yes.

2 THE COURT: I'm sorry, Mr. Zerner, excuse me.

3 Officer, can you take the document away,  
4 please.

5 Q. And you said to him would you like the phone?

6 A. I gave him the phone.

7 Q. Well, let's back up to when you were waiting at  
8 your door looking out the window for Detective Toussaint to  
9 arrive. Did you have the phone in your hand at that point in  
10 time?

11 A. Yes, I did.

12 Q. Now, that phone had been off since August, correct?

13 A. Yes.

14 Q. And it was sitting in a drawer in your room?

15 A. Yes.

16 Q. Was that drawer locked?

17 A. Yes.

18 Q. It was a locked drawer?

19 A. Yes.

20 Q. So as you saw Detective Toussaint coming, you had  
21 the phone in your pocket?

22 A. Yes.

23 Q. Had you had a conversation on not that telephone,  
24 on the telephone with Detective Toussaint before that day  
25 about him taking possession of this phone?

1           A.    I can't be certain.

2           Q.    So you don't remember him asking you for the phone?

3           A.    No.

4           Q.    You volunteered to give him the phone?

5           A.    Yes, I did.

6           Q.    But that wasn't your phone to give.

7                   MR. PERRI:  Objection.

8                   THE COURT:  Sustained.

9           Q.    That phone was purchased by Rafael Mickens,

10       correct?

11          A.    Yes.

12          Q.    Okay.

13                Now, is it fair to say that your sister Tara was a

14       good aunt to your daughter?

15                MR. PERRI:  Objection.

16                THE COURT:  No, overruled.

17          A.    No.

18          Q.    Well, did Tara spend time with Millinia?

19          A.    No.

20          Q.    Did Tara speak with Millinia about school?

21          A.    No.

22          Q.    Did Tara ever take Millinia anywhere?

23          A.    Nil.

24          Q.    I'm not sure what that means, "nil."

25          A.    Seldom.  I don't recall them going out on dates.



1 She might have dropped her at school maybe once or twice in a  
2 school year.

3 Q. Did you ever bring your daughter to school?

4 A. Yes.

5 Q. Did you have a car?

6 A. No.

7 Q. How far away is the school?

8 MR. PERRI: Objection.

9 THE COURT: Overruled.

10 A. One point eight miles, something like that.

11 Q. So you would walk her to school?

12 A. I have walked with her to school and she would walk  
13 herself to school.

14 Let me see, my neighbor --

15 Q. Ms. Sawyer?

16 A. No.

17 Q. What's the neighbor's name?

18 A. Next door. Her name is Iris.

19 Q. What's her last name?

20 A. Nieves.

21 Q. What about Iris Nieves?

22 A. Would give my girls rides on occasion.

23 Q. Did you ever return the favor in helping Ms. Nieves  
24 out with her children?

25 MR. PERRI: Objection.

1 THE COURT: Sustained.

2 Q. Would Ms. Nieves' children play at your home?

3 MR. PERRI: Objection.

4 THE COURT: Sustained.

5 Q. Would your children play at Ms. Nieves' home?

6 MR. PERRI: Objection.

7 THE COURT: Sustained.

8 Q. So it was kind of your sister to give your daughter  
9 a ride instead of having to walk one point eight miles to  
10 school; is that fair to say?

11 MR. PERRI: Objection.

12 THE COURT: Sustained.

13 Q. If you know, did Ray and Tara regularly attend  
14 church on Sundays while they were living in the same home?

15 MR. PERRI: Objection.

16 THE COURT: Overruled.

17 Q. Answer the question, please.

18 THE COURT: Hold it, Mr. Perri.

19 Mr. Zerner, if there is a delay, I'll inquire  
20 as to why there is a delay, okay.

21 MR. ZERNER: Certainly.

22 THE COURT: Thank you.

23 You can answer the question, ma'am.

24 THE WITNESS: And the question is?

25 THE COURT: Did Ray and Tara regularly attend

1 church while they were living at the home, if you know?

2 THE WITNESS: I can't be certain.

3 Q. Did they ever take Tara's children with them to  
4 church?

5 MR. PERRI: Objection.

6 THE COURT: Overruled.

7 A. I can't be certain.

8 Q. Did you and Rafael Mickens make a parenting  
9 decision about religion in your daughter's life?

10 MR. PERRI: Objection.

11 THE COURT: Sustained.

12 Q. Do you know whether your daughter ever accompanied  
13 Ray and Tara to church?

14 A. Her alone? Millinia, herself, alone with Ray and  
15 Tara? Is that the question?

16 MR. ZERNER: Perhaps the question could be  
17 read back to her, your Honor.

18 THE COURT: Did Ray and Tara ever take  
19 Millinia to church, that's the question, at any time,  
20 whether alone or with others?

21 THE WITNESS: I can't be certain.

22 Q. Now, under direct examination you told us about an  
23 argument that you had with your daughter. Do you remember  
24 that on Tuesday you testified about that?

25 A. Yes.

1 Q. And at some point in time there was discussion  
2 about jealousy, do you remember that discussion?

3 A. Yes.

4 Q. Were you jealous of your sister Tara?

5 A. No.

6 MR. PERRI: Objection.

7 THE COURT: Overruled.

8 Q. Now, you told us on Tuesday that you have had  
9 multiple occasions to prepare for your testimony with ADA  
10 Perri, correct?

11 A. Multiple occasions?

12 Q. Well, you said you were with him on Sunday,  
13 February 7th. You were with him on February 1st, do you  
14 remember that?

15 A. Yes.

16 Q. And you were with him when you testified in the  
17 grand jury back in the summer, right?

18 A. Yes.

19 Q. And before you testified in the grand jury,  
20 Mr. Perri talked to you about what would happen in the grand  
21 jury, right?

22 A. I counseled with him.

23 Q. And Mr. Perri had a similar conversation with your  
24 daughter, right?

25 A. We counseled with him, yes.

1 Q. So there were times when it was the three of you in  
2 the room; Millinia, yourself and ADA Perri?

3 A. Yes.

4 Q. Were there other people in the room also?

5 A. I can't be certain.

6 Q. Well, there is a victim's advocate that you spoke  
7 with as well, right?

8 A. Yes.

9 Q. How many times did you speak with her?

10 A. At least once. I could say at least once.

11 Q. At least once in February of 2016, right?

12 A. February of 2016, yes.

13 Q. You spoke with her today, right?

14 A. When you say speak, like speak like say hello, good  
15 morning, greet?

16 THE COURT: She didn't understand your  
17 question, Mr. Zerner.

18 MR. ZERNER: I'll ask another one, Judge.

19 THE COURT: Thank you.

20 Q. Did you have a conversation with victim's advocate  
21 today, yes or no?

22 A. No.

23 Q. Did you have a conversation with the victim's  
24 advocate yesterday, yes or no?

25 A. No.

1 Q. Did you exchange words with her today?

2 THE COURT: Sustained.

3 Q. What time did you arrive for Court today?

4 A. Approximately 9:00.

5 Q. How did you get here?

6 A. Cab.

7 Q. Who paid for the cab?

8 A. ADA.

9 Q. You come to Court yesterday?

10 A. Yes, I did.

11 Q. What time did you get here?

12 A. Roughly 8:45, 9:00.

13 Q. How did you get here?

14 A. Cab.

15 Q. Who paid for the cab?

16 A. ADA Perri's office.

17 Q. Did you come to Court on Tuesday and what time did  
18 you get here?

19 A. Roughly 8:45, 9:00.

20 Q. How did you get here?

21 A. Cab.

22 Q. Who paid for the cab?

23 A. ADA Perri's office.

24 Q. Now, you also came to Court back in July, do you  
25 remember me talking about that? July of 2015 you testified

1 in the grand jury, right?

2 A. Yes.

3 Q. Did you come one day or more than one day?

4 A. I can't be certain.

5 Q. How did you get here?

6 A. I can't be certain. I can't be certain.

7 Q. Well, you testified also that back in August of  
8 2014 you came and spoke with ADA Thurer, do you remember  
9 that?

10 A. Yes.

11 Q. How did you get here that day?

12 A. I came on public transportation.

13 Q. So there is public transportation that will get you  
14 from West Hempstead to Mineola, correct?

15 A. Yes.

16 Q. So how come you didn't take public transportation  
17 today?

18 MR. PERRI: Objection.

19 THE COURT: Sustained.

20 Q. Now, you told us you took away your daughter's cell  
21 phone in August of 2014, correct?

22 A. Yes.

23 Q. And you put that cell phone in a drawer and you  
24 shut it off?

25 A. Yes.

1 Q. Then you discovered she had another cell phone in  
2 October of 2014, correct?

3 A. Yes.

4 Q. Did you get her that cell phone?

5 A. No.

6 Q. When you discovered she had a cell phone, did you  
7 have a conversation with her father, Rafael Mickens about  
8 that?

9 A. No, I did not.

10 Q. In October of 2014, to the best of your knowledge,  
11 did Rafael Mickens know that your daughter didn't have a cell  
12 phone?

13 MR. PERRI: Objection.

14 THE COURT: Overruled.

15 A. I don't know.

16 Q. You never told him that you took away the cell  
17 phone, right?

18 MR. PERRI: Objection.

19 THE COURT: Overruled.

20 A. No.

21 Q. So now in October of 2014 you took away a second  
22 cell phone from your daughter, correct?

23 A. Yes.

24 Q. What was her reaction?

25 A. She was upset.



1 Q. Did you ask her how she got the cell phone?

2 A. Yes, I did.

3 Q. Did you ask Rafael Mickens about the cell phone?

4 A. No, I didn't.

5 Q. Did you punish your daughter when you took away her  
6 cell phone and defying you about having the cell phone?

7 A. Punish. Punish. Define punish. Punish.

8 MR. ZERNER: Your Honor, if I may rephrase the  
9 question?

10 THE COURT: Please.

11 Q. When your children needed to be disciplined, how  
12 would you discipline your children?

13 MR. PERRI: Objection.

14 THE COURT: Sustained.

15 Q. In August of 2014 you made it clear to your  
16 daughter that she could not have a cell phone, correct?

17 A. Say the date again, please.

18 Q. August of 2014.

19 A. Yes.

20 Q. Nevertheless, in October of 2014 you discovered  
21 that she had a cell phone, correct?

22 A. Yes.

23 Q. So you took away that cell phone, correct?

24 A. Yes.

25 Q. Did you also take any other action against your

1 daughter?

2 A. No.

3 MR. ZERNER: If I can have one moment with my  
4 client, your Honor.

5 THE COURT: You may.

6 (Pause in the proceedings.)

7 Q. The second cell phone that you took away from your  
8 daughter in October of 2014, you didn't purchase it for her,  
9 correct?

10 A. No.

11 Q. Nevertheless, you gave that to Detective Toussaint,  
12 correct?

13 A. Yes.

14 Q. And you voluntarily gave it to Detective Toussaint,  
15 correct?

16 A. Yes.

17 Q. He asked you to sign a form?

18 A. Yes.

19 Q. And you represented that it was your cell phone,  
20 correct?

21 A. Yes.

22 MR. ZERNER: Nothing further at this time,  
23 your Honor.

24 THE COURT: Very good. Thank you, Mr. Zerner.  
25 Mr. Perri.

1 MR. PERRI: Very briefly, your Honor.

2 REDIRECT EXAMINATION

3 BY MR. PERRI:

4 Q. Ms. Johnson, you recall defense counsel asking you  
5 about receiving money for your phone from the district  
6 attorney's office?

7 A. Yes.

8 Q. Do you recall that?

9 A. Yes.

10 Q. And how much money did the district attorney's  
11 office give you for your phone?

12 A. Forty dollars.

13 Q. And did the entire \$40 go to keeping your phone on  
14 this month?

15 A. Yes.

16 Q. Did you return any change to the district  
17 attorney's office?

18 A. Yes, I did.

19 Q. Approximately how much change did you return to the  
20 district attorney's office?

21 A. \$7.41.

22 MR. PERRI: Nothing further, your Honor.

23 THE COURT: Mr. Zerner.

24 MR. ZERNER: No recross on that redirect, your  
25 Honor, thank you.

1 THE COURT: Ms. Johnson, your testimony is  
2 completed. You are excused now. Thank you very much.

3 (Whereupon, the witness was executed.)

4 THE COURT: Next witness, Mr. Perri.

5 MR. PERRI: Your Honor, may we approach just  
6 about scheduling?

7 THE COURT: Yes.

8 (Whereupon, a discussion was held off the  
9 record.)

10 MR. PERRI: Your Honor, the People call  
11 Detective Toussaint.

12 D E T. R H U B E N S T O U S S A I N T, Shield #1192,  
13 assigned to the Major Case Bureau of the Nassau County  
14 Police Department, having been called as a witness  
15 on behalf of the People, having been duly sworn by the  
16 Clerk of the Court, was examined and testified as  
17 follows:

18 THE CLERK: State your name, spell your last  
19 name and give your shield number and command for the  
20 record.

21 THE WITNESS: Rhubens, R-H-U-B-E-N-S,  
22 Toussaint, T-O-U-S-S-A-I-N-T. Shield 1192. I'm  
23 currently assigned to the Major Case Bureau, Nassau  
24 County Police Department.

25 THE COURT: Good morning, sir.

1 THE WITNESS: Good morning.

2 THE COURT: Mr. Perri, your witness.

3 MR. PERRI: Thank you, your Honor.

4 DIRECT EXAMINATION

5 BY MR. PERRI:

6 Q. Detective Toussaint, how many year have you been in  
7 law enforcement?

8 A. Eleven years.

9 Q. How long have you been a detective?

10 A. Six years.

11 Q. You stated that your present assignment was with  
12 the Major Case Division of the Nassau County Police  
13 Department. How long has that been your assignment?

14 A. Three months.

15 Q. Prior to that assignment, what was your assignment  
16 in the police department?

17 A. Fourth Squad.

18 Q. If you can describe roughly what area does the  
19 Fourth Squad cover?

20 A. At that time we covered from South Floral Park all  
21 the way down to Atlantic Beach and up to South Garden City,  
22 all the way to Lido, including West Hempstead.

23 Q. Does that also include the Lakeview neighborhood?

24 A. Yes.

25 Q. Detective, was that your assignment in 2014?

1 A. Yes.

2 Q. Detective, on or about October 21st, 2014 did you  
3 become involved in an investigation into the suspected child  
4 sex abuse?

5 A. Yes.

6 Q. And who was the alleged victim in that case?

7 A. Millinia Johnson.

8 Q. And who was the mother of the alleged victim?

9 A. Ms. Sarita Johnson.

10 Q. To your knowledge, how did that case originate?

11 A. It was a referral from the district attorney's  
12 office civilian complaint section.

13 Q. Now, when you received that assignment, did your  
14 supervisor give you any specialized instructions?

15 A. No.

16 Q. And when you received that assignment, was Sarita  
17 Johnson present?

18 A. No.

19 Q. Was Millinia Johnson present?

20 A. No.

21 Q. What steps did you take upon receiving the  
22 assignment to investigate the matter?

23 A. I called in a case and created a police department  
24 case number.

25 Q. And what case number was assigned to this case?

1 A. 2014 CR-49643.

2 Q. And, Detective, after doing that, what other steps  
3 did you take, if any?

4 A. I called the complainant, Ms. Sarita Johnson.

5 Q. And when you called her, did she pick up?

6 A. No. I left a voicemail.

7 Q. Did there come a time approximately two weeks later  
8 when you spoke with Ms. Johnson?

9 A. Yes.

10 MR. ZERNER: Objection; leading.

11 THE COURT: Sustained.

12 Q. Did there come a time when you spoke with  
13 Ms. Johnson?

14 A. Yes.

15 Q. When approximately was that?

16 A. It was about two weeks later from the initial phone  
17 call.

18 Q. What, if any, arrangements did you make during that  
19 phone conversation?

20 A. We had made arrangement for Ms. Johnson to come to  
21 the station house to talk to me.

22 Q. Did that meeting take place?

23 A. No.

24 Q. Did there come a time when you met Ms. Sarita  
25 Johnson?

1 A. Yes.

2 Q. And how did that happen?

3 A. I ended up finding her and I spoke to her on the  
4 phone and we set up something where I would go to her instead  
5 of her coming to me.

6 Q. And where did you go in order to meet her?

7 A. I went to her residence at 301 Coventry Road North  
8 in West Hempstead.

9 Q. Is that in Nassau County?

10 A. Yes.

11 Q. And was she at the address when you went there?

12 A. Yes.

13 Q. What day was that when you went to her residence?

14 A. I don't remember the exact day. It was December  
15. 10th.

16 Q. And on December 10th what did you do when you  
17 arrived at the residence?

18 A. I let her -- I called and let her know I was  
19 outside. She came out. We started speaking outside of her  
20 house and then she asked me if I could move and go somewhere  
21 else. She would be more comfortable. She didn't want to  
22 continue speaking in front of the house.

23 Q. And was she alone or accompanied by anyone?

24 A. She was with her daughter.

25 Q. What was her daughter's name?



1 A. Millinia Johnson.

2 Q. And, Detective, did you -- what did you do after  
3 she said she would be more comfortable speaking somewhere  
4 else?

5 A. I left her block and drove about three or four  
6 blocks away from her house in a parking lot. It's an  
7 elementary school. Eagle Elementary School parking lot.

8 Q. And when you drove away from the house to that  
9 parking lot, who was in the car with you?

10 A. Ms. Johnson and her daughter.

11 Q. And what happened when you arrived at the parking  
12 lot? What did you do next?

13 A. I continued speaking to Ms. Johnson. I took her  
14 complaint and then I asked her to speak with her daughter  
15 alone and she -- I asked her to exit the vehicle.

16 Q. Did you see Ms. Sarita Johnson exit the vehicle?

17 A. Yes, she exited the vehicle.

18 Q. And do you know where she went?

19 A. Yes, she was -- she stayed in the parking lot in  
20 the vicinity.

21 Q. And what happened after Ms. Johnson exited the  
22 vehicle?

23 A. Then I spoke with the victim.

24 Q. Without going into the substance of what -- I'm  
25 sorry, when you say "victim," do you mean Millinia Johnson?

1 A. Yes.

2 Q. And without going into the substance of the  
3 conversation you had with Millinia Johnson, what topic did  
4 you talk about with her?

5 A. We spoke about her account, you know, of what  
6 happened during several trips that she made to Brooklyn with  
7 the defendant.

8 Q. Did you ask her questions while you were in the  
9 car?

10 A. Yes.

11 Q. And did she answer those questions?

12 A. Yes.

13 Q. Without going into the substance of her answers to  
14 your questions, could you please describe her demeanor as you  
15 spoke with her?

16 A. Well, she was a little embarrassed to answer some  
17 of the questions when I asked her to give me details of what  
18 happened. She looked -- she was ashamed of what happened, a  
19 little uncomfortable. It took a little while.

20 I asked her questions. She, you know, she paused,  
21 she waited for a while and then, you know, eventually she  
22 opened up and answered the questions.

23 Q. And when she opened up and answered your questions,  
24 could you describe her emotional state as she talked to you?

25 A. She was -- she appeared upset and was not happy

1 with the experience that she had.

2 Q. And was Sarita Johnson in the car present for that  
3 conversation?

4 A. No.

5 Q. Were you working alone or with any other partner  
6 that day?

7 A. I was by myself.

8 Q. After you spoke to Millinia Johnson what, if  
9 anything, did you do next with your investigation?

10 A. I collected two cell phones from her that she  
11 showed me text message communication between Millinia and the  
12 defendant, Mr. Ray Ross.

13 Q. And when you say "her," who are you speaking of  
14 there?

15 A. Ms. Johnson. Between her daughter Millinia and  
16 Mr. Ross.

17 Q. And what did you do with that property?

18 A. I took it to our Electronics Squad. They were able  
19 to download the text messages on paper.

20 Q. And then did you invoice that property?

21 A. Yes.

22 Q. And when you invoiced that property, those two cell  
23 phones, what is that process like? Could you please describe  
24 what to invoice means?

25 A. Invoicing means that I generate a voucher number

1 for my command and then I send it to our Property Bureau  
2 which is at headquarters. That's where they keep all the  
3 property at some point in time. This way it serves as a  
4 point of reference when we need the property back, they know  
5 exactly which command it goes back to.

6 Q. And earlier you talked about a case number that was  
7 generated for this case. What, if anything, does the case  
8 number have to do with invoicing the property?

9 A. Well, the case number is what's used along with the  
10 voucher number to keep track of property particular to that  
11 case.

12 Q. And did you voucher the two cell phones that Sarita  
13 Johnson gave you under that case number?

14 A. Yes.

15 Q. Did you or any other members of law enforcement do  
16 anything to alter those cell phones on the exterior?

17 A. No.

18 Q. Did you or any other members of law enforcement, to  
19 your knowledge, do anything --

20 MR. ZERNER: Your Honor, I'm going to object.

21 He doesn't know what any other member of law enforcement  
22 did. He can only answer for himself.

23 THE COURT: With regard to the second  
24 question, he used the caveat if you know. Overruled.

25 Q. To your knowledge, did you or any other members of

1 law enforcement alter, delete any of the data on those  
2 phones?

3 A. No.

4 Q. Did you turn those two cell phones in their  
5 envelopes over to the district attorney's office in  
6 preparation for trial?

7 A. Yes.

8 Q. Up until you turned those cell phones over to the  
9 district attorney's office in preparation for trial, did they  
10 remain in the possession of the Nassau County Police  
11 Department?

12 A. Yes.

13 Q. Was that from the time that Sarita Johnson gave you  
14 those two cell phones?

15 A. Yes.

16 MR. PERRI: I ask this be marked as People's  
17 12, your Honor.

18 (Whereupon, People's Exhibit 12 was marked for  
19 identification, only.)

20 COURT OFFICER: People's 12 marked for ID.

21 MR. PERRI: I ask it be shown to the witness.

22 (Handed to witness.)

23 Q. Detective Toussaint, do you recognize that  
24 envelope?

25 A. Yes.

1 Q. What do you recognize it to be?

2 A. It's the Property Bureau envelope that I used to  
3 invoice the cell phone.

4 Q. And do you recognize any markings on that envelope?

5 A. Yes, the case number is there, '14 CR-49643.

6 Q. Is that the same case number that was assigned to  
7 your investigation?

8 A. Yes.

9 Q. I'm going to ask you to look inside the envelope.  
10 Detective, are there any items inside the envelope?

11 A. Yes.

12 Q. What's inside the envelope?

13 A. It's the cell phone.

14 Q. Can you please take that out.

15 Detective, collectively do you recognize those  
16 items that you took out of the envelope?

17 A. Yes.

18 Q. And what do you recognize them to be?

19 A. This is one of the cell phones that I got from Ms.  
20 Sarita Johnson that night.

21 Q. And, Detective, can you distinguish that phone from  
22 the other phone you have testified about receiving from  
23 Sarita Johnson?

24 A. Yes, there were two phones. This one is the older  
25 one. It has scratches on the back comparing to the other one

1 which is a lot newer. And the official part there is a  
2 green -- the thumb has a green color at the bottom.

3 Q. And, Detective, does that phone have a serial  
4 number?

5 A. Yes.

6 MR. PERRI: I ask that be taken from the  
7 witness for a moment, your Honor.

8 Your Honor, I ask the witness be shown  
9 People's 10 in evidence subject to connection.

10 (Handed to witness.)

11 Q. Detective, do you recognize People's 10?

12 A. Yes.

13 Q. What do you recognize it to be?

14 A. It's the pictures of the text messages from the  
15 older phone.

16 Q. And now, Detective, when you took the phone from  
17 Sarita Johnson, did you have an opportunity to look at the  
18 text messages on the actual phone?

19 A. Yes.

20 Q. Did you have more than one opportunity to do that?

21 A. Yes.

22 Q. And when you looked at those text messages, did you  
23 read the contents of the text messages?

24 A. Yes.

25 Q. So, Detective, you said that you recognized those

1 to be the text messages from the older phone. How do you  
2 recognize those to be the text messages from the older phone?

3 A. This is from the older phone. On the older phone  
4 the victim had --

5 MR. ZERNER: Objection to the term victim.

6 It's complainant.

7 THE COURT: Hold it, Mr. Zerner. Thank you.

8 Detective Toussaint, when you are referring to  
9 Millinia Johnson, you can call her Millinia or you can  
10 call her the child or you can call her one of the  
11 complaining witnesses, but you would have to identify or  
12 distinguish her from Sarita Johnson, okay, but please  
13 refrain from calling her victim, okay.

14 THE WITNESS: Yes, sir.

15 Q. Detective, how do you know those to be the text  
16 messages from the older phone?

17 A. The older phone lists Mr. Ray Ross as Ray Ray, his  
18 phone number 516-537-6877.

19 THE COURT: Detective, could you repeat the  
20 phone number?

21 THE WITNESS: 516-537-6877 is listed as Ray  
22 Ray on the contact. That's the older phone.

23 Q. And, Detective, do the photographs in that packet,  
24 do they appear to be in the same format as they were on the  
25 phone?



1 A. Yes.

2 Q. Do the content of the text messages depicted in  
3 those photographs, are they the same as they were on the  
4 phone?

5 A. Yes.

6 Q. Are those fair and accurate depictions of the text  
7 messages you viewed on the phone that Sarita Johnson turned  
8 over to you?

9 A. Yes.

10 MR. PERRI: I ask that be taken from the  
11 witness.

12 Your Honor, I ask that People's 12 be moved in  
13 subject to connection through Millinia Johnson.

14 THE COURT: Mr. Zerner.

15 MR. ZERNER: If I can have a brief voir dire  
16 about People's 12.

17 THE COURT: You may.

18 MR. ZERNER: If I can have People's 12,  
19 please.

20 THE COURT: You may.

21 (Handed to counsel.)

22 VOIR DIRE EXAMINATION

23 BY MR. ZERNER:

24 Q. Now, Detective, you were handed People's 12 by the  
25 ADA about eight, ten minutes ago, right?

1 A. Yes.

2 Q. When he asked you to open it, did you have to  
3 unseal anything to open it?

4 A. No.

5 Q. It was already unsealed, right?

6 A. Yes.

7 Q. And that's the big white envelope, right?

8 A. Yes.

9 Q. And then inside of it was a smaller Manila colored  
10 envelope, right?

11 A. Yes.

12 Q. And that was also already unsealed, correct?

13 A. Yes.

14 Q. Now, you're familiar with cell phones both in your  
15 professional and in your personal life, right?

16 A. Yes.

17 Q. Fair to say many cell phones look the same?

18 A. Yes.

19 Q. In fact, you got two cell phones in this case,  
20 right?

21 A. Yes.

22 Q. And who owned these cell phones?

23 MR. PERRI: Objection.

24 THE COURT: Sustained.

25 Q. Did the two cell phones that you got in this case

1 look similar to each other?

2 A. Yes, they were two Samsung phone.

3 Q. And not just Samsung phones, but also the same  
4 size, the same color, the same weight, correct?

5 A. Yes.

6 Q. So you know this phone to be the older phone  
7 because you took notes back in 2014 that said this was the  
8 older phone, right?

9 MR. PERRI: Objection.

10 THE COURT: Sustained.

11 Q. When you first got these two phones, how did you  
12 know which was the older and which was the newer?

13 MR. PERRI: Objection.

14 THE COURT: No objection?

15 MR. PERRI: No, your Honor.

16 THE COURT: You can answer.

17 A. The older one obviously looked old because it  
18 looked beat up. It had scratches all over it. And the new  
19 one looks newer than the older one.

20 Q. You were using your common sense about what they  
21 looked like with regards to how much use they had?

22 A. Yes, and also information from Ms. Sarita Johnson  
23 who said --

24 Q. So Sarita Johnson --

25 A. Told me this was the older phone, correct.

1 THE COURT: Mr. Zerner, hold it, because we  
2 had cross talk there.

3 MR. ZERNER: My apologies again, your Honor.

4 Q. Now, Sarita Johnson told you this phone was the  
5 older phone, correct?

6 A. Yes.

7 Q. When she handed you the phone, was the phone  
8 charged?

9 A. The older phone? It was charged. It has a little  
10 bit of charge on it.

11 Q. How do you remember that?

12 A. I remember because I went through the text messages  
13 with her in the car.

14 MR. PERRI: Objection, your Honor.

15 THE COURT: Detective, when you hear the word  
16 objection or you see Mr. Perri stand up, just hold your  
17 answer, okay.

18 THE WITNESS: Yes.

19 THE COURT: The objection is overruled, but,  
20 Mr. Zerner, we're on voir dire here, okay.

21 MR. ZERNER: I'll save some of it for cross,  
22 your Honor.

23 THE COURT: Thank you. I hope so.

24 Q. There is handwriting on the smaller Manila  
25 envelope, correct?

1 A. Yes.

2 Q. Is it your handwriting?

3 A. No.

4 Q. Whose handwriting, is it?

5 A. Electronics Squad.

6 Q. How do you know that?

7 A. I turn it to them for the download and they turn it  
8 back to me with the Manila envelope.

9 Q. Is there a signature on here?

10 A. No.

11 Q. Is there someone's badge number, squad, command  
12 listed on this Manila envelope?

13 A. No.

14 Q. Weren't you taught, as all police officers and  
15 detectives in Nassau County were taught, that that's the way  
16 you identify items that you take?

17 MR. PERRI: Objection.

18 THE COURT: Sustained.

19 Q. Why is there no signature or squad number or badge  
20 number on here, if you know?

21 MR. PERRI: Objection.

22 THE COURT: Sustained. Once again,  
23 Mr. Zerner, you are on voir dire, not cross-examination.

24 MR. ZERNER: Understood, your Honor.

25 Q. On the larger white envelope there is an orange

1 sticker, correct?

2 A. Yes.

3 Q. Who put that orange sticker on there?

4 A. Property Bureau.

5 Q. Not you, right?

6 A. No.

7 Q. Do you know who from the Property Bureau did that?

8 A. No.

9 Q. Do you know when Property Bureau did that?

10 A. No.

11 Q. Did you have any conversations with Property Bureau  
12 about that?

13 A. No.

14 Q. You personally had nothing to do with it, right?

15 A. Well, I turned it into Property Bureau. I don't  
16 recall the exact date and who processed it when I sent it  
17 over there.

18 Q. And there is no signature or badge number or squad  
19 or command on it?

20 A. Not on the envelope.

21 Q. When you say not on the envelope, there's another  
22 place that it is?

23 MR. PERRI: Objection.

24 THE COURT: Sustained.

25 MR. ZERNER: I object to this item being

1           offered into evidence at this time, your Honor, and I  
2           don't believe proper foundation has been laid by this  
3           witness.

4                     THE COURT: Thank you, Mr. Zerner.

5                     The objection is overruled. The phone is  
6           received in evidence. That is subject to connection by  
7           Millinia Johnson?

8                     MR. PERRI: Yes, your Honor.

9                     (Whereupon, People's Exhibit 12 was received  
10          in evidence.)

11                    COURT OFFICER: People's 12 in evidence.

12                    MR. PERRI: I ask it be returned to the  
13          witness, please. I also ask if the witness can be shown  
14          People's 7.

15                    THE COURT: At the same time?

16                    MR. PERRI: Yes, your Honor, for comparison.  
17          I ask the witness to look at People's 7 in evidence  
18          subject to connection.

19          DIRECT EXAMINATION (Cont'd)

20          BY MR. PERRI:

21                    Q. Now, Detective, I ask you to look at the  
22          photographs in People's 7. Do you recognize those  
23          photographs?

24                    A. Yes.

25                    Q. What do you recognize them to be?

1           A.    These are the pictures of the two cell phones that  
2 I recovered from Ms. Sarita Johnson.

3           Q.    Now, Detective, is there a picture of a serial  
4 number on that phone?

5           A.    Yes.

6           Q.    And I ask you to look at the serial number?

7                    You located the serial number, Detective?

8           A.    Yes.

9           Q.    I ask you to compare that to the serial number on  
10 the phone in People's 12?

11                   What, if anything, do you discover when you compare  
12 the two serial numbers?

13           A.    The same serial number on the phone is what's on  
14 the picture here.

15                   MR. PERRI: I ask the items be removed from  
16 the witness, your Honor.

17                   I ask this be marked as People's 13.

18                   (Whereupon, People's Exhibit 13 was marked for  
19 identification, only.)

20                   COURT OFFICER: People's 13 marked for ID.

21                   MR. PERRI: I ask it be shown to the witness.

22                   (Handed to witness.)

23           Q.    Detective Toussaint, do you recognize that  
24 envelope?

25           A.    Yes.



1 Q. What do you recognize it to be?

2 A. It's the envelope that I used to invoice the second  
3 cell phone.

4 Q. And, Detective, what, if any, markings do you  
5 recognize on that envelope?

6 A. It has the case number 2014 CR-49643.

7 Q. Does that correspond to the case report number  
8 involving Millinia Johnson?

9 A. Yes.

10 Q. Detective, I'm going to ask you to look inside the  
11 envelope?

12 What, if anything, do you see inside?

13 A. It has a cell phone inside.

14 Q. Could you please take that out.

15 Detective, those items collectively, do you  
16 recognize them?

17 A. Yes.

18 Q. What do you recognize them to be?

19 A. It's the second cell phone that I collected from  
20 Ms. Sarita Johnson that night.

21 Q. And can you distinguish that phone from the other  
22 phone by looking at it?

23 A. Yes.

24 Q. And how can you do that?

25 A. It looks a little newer than the first phone that

1 we looked at.

2 Q. And does that phone have a serial number?

3 A. Yes.

4 MR. PERRI: I ask that be taken from the  
5 witness, your Honor.

6 I ask that People's 11 be shown to the  
7 witness.

8 (Handed to witness.)

9 Q. Detective, do you recognize People's 11?

10 A. Yes.

11 Q. And what do you recognize it to be?

12 A. It's photographs of text messages from the second  
13 phone.

14 Q. And when you received the second cell phone from  
15 Ms. Sarita Johnson, did you have an opportunity to look at  
16 the text messages on that phone?

17 A. Yes.

18 Q. And did you, in fact, look at those messages?

19 A. Yes.

20 Q. Did you look at them more than once?

21 A. Yes.

22 Q. Detective, when you looked at those messages on  
23 that cell phone, did you read the contents of those messages?

24 A. Yes.

25 Q. Detective, does the format of those photographs,

1 the text messages in those photographs, does it match the  
2 second cell phone?

3 A. Yes.

4 Q. And did the contents of the text messages in that  
5 packet in People's 11, does it match the contents of the  
6 messages that were on the second cell phone?

7 A. Yes.

8 Q. Are those fair and accurate depictions of the  
9 messages that you viewed on the cell phone that you  
10 physically just had in your possession?

11 A. Yes.

12 MR. PERRI: I ask that be taken from the  
13 witness.

14 Your Honor, I ask that People's 13 be moved  
15 into evidence subject to connection through Millinia  
16 Johnson.

17 THE COURT: Officer -- Mr. Zerner, you wish to  
18 voir dire, correct?

19 MR. ZERNER: Of course.

20 THE COURT: You need the phone?

21 MR. ZERNER: I would like it.

22 THE COURT: You can have it.

23 VOIR DIRE EXAMINATION

24 BY MR. ZERNER:

25 Q. Detective Toussaint, you didn't have to unseal the

1 white envelope for People's 13, correct?

2 A. Correct.

3 Q. And you didn't have to unseal the smaller Manila  
4 envelope inside of People's 13, right?

5 A. Yes.

6 Q. They were both already unsealed?

7 A. Yes.

8 Q. Somebody else has been dealing with this phone,  
9 right?

10 A. Yes.

11 Q. You don't know who, right?

12 A. Be more specific. It's either the police  
13 department or the ADA.

14 Q. Well, the DA has had the phone for a while now,  
15 right?

16 A. Yes.

17 Q. And the district attorney's office has their own  
18 investigators, right?

19 A. Yes.

20 Q. And the district attorney's office has their own  
21 specialty squads, right?

22 MR. PERRI: Objection.

23 THE COURT: Sustained.

24 Q. Now, again, the Manila envelope that was inside of  
25 the larger white envelope has nobody's signature, nobody's

1 badge number, squad, command, nothing, right?

2 A. Yes.

3 Q. It has a handwriting on it?

4 A. Yes.

5 Q. But it's not your handwriting, correct?

6 A. Correct.

7 Q. In fact, it looks like there was a mistake made on  
8 this envelope, right?

9 MR. ZERNER: I would like -- I don't know if  
10 we want to call this People's 13 sub A. This is a  
11 Manila envelope that can be handed back to Detective  
12 Toussaint.

13 THE COURT: Hold it, Mr. Zerner. There is no  
14 need to mark it in any other manner.

15 MR. ZERNER: I want to make sure the record  
16 was clear.

17 THE COURT: It is the envelope that was part  
18 of People's 13. There is a marking on the envelope.  
19 Mr. Zerner, your question.

20 Q. You see that there is a cross-out on there?

21 A. Yes.

22 Q. Did you cross that out?

23 A. No.

24 Q. When you were taught how to take notes in the  
25 police academy if there was a mistake, were you taught to

1 initial the mistake?

2 MR. PERRI: Objection.

3 THE COURT: Sustained.

4 Q. And you don't know whose handwriting that is,  
5 right?

6 A. No.

7 Q. Now, the phone, itself that was inside of People's  
8 13, is it fair to say it's the same make and model as the  
9 phone we looked at before in People's 12?

10 A. Yes.

11 Q. And the serial number, have you memorized the  
12 serial number?

13 A. No.

14 Q. Was there any need to memorize the serial number?

15 A. No.

16 Q. Did Sarita Johnson ever tell you she memorized the  
17 serial number when you took possession of this item?

18 MR. PERRI: Objection.

19 THE COURT: Sustained.

20 Q. Now, you were told by somebody this was cell phone  
21 number two or the newer phone, right?

22 A. Yes.

23 Q. And you were told that by Sarita Johnson?

24 A. Yes.

25 Q. Did you take possession of this phone, the second

1 phone at the same time as the first phone?

2 A. Yes.

3 Q. And this was in your unmarked squad car a few  
4 blocks away from 301 Coventry Road North in West Hempstead?

5 A. Yes.

6 Q. And was there any charge left on that phone?

7 A. Yes.

8 Q. You're sure?

9 A. Yes.

10 Q. Did you look at the phone at that time?

11 A. Yes.

12 Q. Did Ms. Johnson tell you when she took that phone  
13 away from her daughter?

14 MR. PERRI: Objection.

15 THE COURT: Sustained.

16 MR. ZERNER: Your Honor, I have an objection  
17 to these items coming into evidence.

18 THE COURT: Thank you, Mr. Zerner. The  
19 objection is overruled and People's 13 is received in  
20 evidence subject to connection by Millinia Johnson.

21 (Whereupon, People's Exhibit 13 was received  
22 in evidence.)

23 COURT OFFICER: People's 13 in evidence.

24 MR. PERRI: I ask if that can be shown along  
25 with People's 6 to the witness, your Honor, for

1 comparison.

2 (Handed to witness.)

3 DIRECT EXAMINATION (Cont'd)

4 MR. PERRI:

5 Q. Detective, if you could locate on People's 6 --  
6 withdrawn, your Honor.

7 On People's 6, Detective, is there a serial number  
8 in the photograph?

9 A. Yes, there is.

10 Q. Detective, I would like you to compare that serial  
11 number to the serial number you said that was on the cell  
12 phone contained in the envelope. If you can do that, please.

13 THE COURT: In People's 13?

14 MR. PERRI: Yes, I apologize.

15 Q. Detective, what, if anything, did you discover by  
16 comparing those two serial numbers?

17 A. They have the same serial number.

18 Q. Thank you.

19 MR. PERRI: I ask both items be taken from the  
20 witness, your Honor.

21 Q. Now, Detective, you testified that you spoke with  
22 Millinia Johnson without her mother present. After speaking  
23 with Millinia Johnson did there come a time that you reduced  
24 the information that you received from her to writing?

25 A. Yes.



1 Q. And could you explain how you did that?

2 A. I dropped them off, went to the station house, type  
3 it up and then went back and gained the signatures.

4 Q. So did you meet with them the same day?

5 A. Yes.

6 Q. And when you brought that typed written statement  
7 back, who did you meet with?

8 A. With both, Ms. Sarita Johnson and her daughter  
9 Millinia Johnson.

10 Q. Did they sign that statement?

11 A. Yes.

12 Q. And did Sarita Johnson sign that statement?

13 MR. ZERNER: Objection; asked and answered.

14 THE COURT: He just indicated they both signed  
15 it.

16 MR. PERRI: Sorry, your Honor.

17 Q. Why did you have Sarita Johnson sign that  
18 statement?

19 A. Millinia is a child. She's underage. And also  
20 Ms. Sarita Johnson was present when she read the statement  
21 and I had her reading it as well as a parent.

22 Q. Now, Detective, in your investigation, did there  
23 come a time where you attempted to get any video  
24 surveillance?

25 A. Yes.

1 Q. And what did you do to try to get video  
2 surveillance?

3 A. I drove by the parking lot of National Wholesale  
4 Liquidators where Millinia Johnson told me the incidents took  
5 place. I looked around. I didn't see any video cameras.

6 Q. And, Detective, where was National Wholesale  
7 Liquidators located?

8 A. 111 Hempstead Turnpike in West Hempstead.

9 Q. Is that in Nassau County, New York State?

10 A. Yes.

11 Q. Detective, from the examination of the cell phones,  
12 from your interview with Sarita Johnson and Millinia Johnson,  
13 did you learn the cell phone number of the defendant?

14 A. Yes.

15 Q. And did there come a time where you called that  
16 number?

17 A. Yes.

18 Q. And what was that number?

19 A. 516 number 537-6877.

20 Q. And when you called that number, did anyone answer?

21 A. Yes.

22 Q. And did you identify yourself as a detective?

23 A. Yes.

24 Q. And did the person on the other end of the phone  
25 identify themselves?

1 A. Yes.

2 Q. Who did they identify themselves to be?

3 A. Ray Ross.

4 Q. And after that phone call with the person that said  
5 they were Ray Ross, did there come a time you met an  
6 individual named Ray Ross?

7 A. Yes.

8 Q. Do you see that person present in the courtroom?

9 A. Yes.

10 Q. Could you identify him by pointing to him and  
11 naming an article of clothing he's wearing?

12 A. Yes. He's sitting across from me wearing all  
13 black.

14 MR. PERRI: I ask the record reflect that the  
15 witness has identified the defendant?

16 THE COURT: So noted.

17 Q. And, Detective, how did you come to know the  
18 defendant?

19 A. When he surrendered to the precinct.

20 Q. And what happened after he surrendered himself to  
21 the precinct?

22 A. I processed him. I got his pedigree information.

23 Q. What is pedigree information?

24 A. That's his name, date of birth, phone number.

25 Q. And --

1 A. And address.

2 Q. Did you ask him for a contact phone number?

3 A. Yes.

4 Q. And did he give you an answer to that question?

5 A. Yes.

6 Q. What number did he give you?

7 A. He gave me his cell phone number, 516-537-6877.

8 Q. Is that the same number that Sarita Johnson gave  
9 you?

10 A. Yes.

11 Q. Did that include -- did the pedigree information  
12 include the defendant's date of birth?

13 A. Yes.

14 Q. Did you ask him for his date of birth?

15 A. Yes.

16 Q. Did he answer that question?

17 A. Yes.

18 Q. What did he give his date of birth to be?

19 A. March 31st, 1959.

20 Q. Prior to this investigation, did you know the  
21 defendant?

22 A. No.

23 Q. Prior to this investigation had you ever had any  
24 interactions with Sarita Johnson?

25 A. No.

1 Q. Prior to this investigation had you ever met or had  
2 any interactions with Millinia Johnson?

3 A. No.

4 MR. PERRI: Nothing further, your Honor.

5 THE COURT: Mr. Zerner.

6 MR. ZERNER: Thank you, your Honor.

7 CROSS-EXAMINATION

8 BY MR. ZERNER:

9 Q. Good afternoon, Detective.

10 A. Hi, how are you.

11 Q. Detective, we have met once before, right?

12 A. Yes.

13 Q. And that was in April of 2015?

14 A. Yes.

15 Q. And that was when I brought Ray Ross to your  
16 precinct?

17 A. Yes.

18 Q. Now, you said that you asked Ray Ross for his phone  
19 number, right?

20 A. Yes.

21 Q. And he voluntarily gave you his phone number,  
22 correct?

23 A. Yes.

24 Q. He wasn't trying to hide the phone number, was he?

25 A. No.

1 Q. He didn't give you any kind of a story, well, about  
2 I used to have this number and now it's a different number?

3 A. No.

4 Q. Now, your first knowledge that there was anything  
5 to investigate took place in early December 2014; is that  
6 fair to say?

7 A. Yes.

8 Q. And you were initially told to investigate this by  
9 whom?

10 A. By my boss.

11 Q. So this is the head of this squad at the Fourth  
12 Precinct?

13 A. Yes.

14 Q. And what's his name and rank?

15 A. Detective Lieutenant Frank Decicco.

16 Q. Is it fair to say just one day he told you hey,  
17 Toussaint, go look into this; is that fair to say, something  
18 like that?

19 A. Yes. As they come in, he assigns them to whoever  
20 is catching cases for the day.

21 Q. It just happened to be your day to catch this case?

22 A. Yes.

23 Q. Are there female detectives that were in the Fourth  
24 Squad at that point in time?

25 A. You mean assigned to the squad or was working?

1 Q. Let's first talk about assigned. I understand that  
2 there is 24 hours a day detectives on duty, correct?

3 A. Yes.

4 Q. So in any 24 hour period in December of 2014, were  
5 there female detectives?

6 A. Yes.

7 Q. Now, the day you got this case, do you remember the  
8 particular day you got it?

9 A. Not particular.

10 Q. But it was early December 2014?

11 A. It was actually October 30, 2014.

12 Q. So we remember the exact date, October 30, 2014?

13 A. Yes.

14 Q. Okay. And the first step you took was you made a  
15 phone call to a number that was provided to you, right?

16 A. Yes.

17 Q. And that phone number, was that a cell phone number  
18 or a house phone number or a landline?

19 A. I had both. I had a landline and a cell phone.

20 Q. So you were given a landline and a cell phone  
21 number that both belonged to Sarita Johnson?

22 A. Yes.

23 Q. Did you do any search in any kind of database that  
24 you have access to confirm who owned these phones?

25 A. No.

1 Q. So you just got an assignment from a detective  
2 lieutenant and on that piece of paper there were two  
3 different phone numbers?

4 A. Yes.

5 Q. Do you remember those phone numbers?

6 A. No.

7 Q. So did you call both of those phone numbers?

8 A. Yes.

9 Q. Was there a voicemail on both of the phone numbers?

10 A. I remember leaving a voicemail on her cell phone.

11 Q. How did you know it was the cell phone?

12 A. That's a good question.

13 Q. Thank you.

14 A. The one phone has the old, you know, the old  
15 answering machine machine.

16 Q. So you remember that there was a machine?

17 A. And then the cell phone has the computerized  
18 digital voice, so that's how I differentiate the cell phone.

19 Q. The one that had the machine, do you remember what  
20 the outgoing message was for that phone?

21 MR. PERRI: Objection.

22 THE COURT: Sustained.

23 Q. So you left a message on the cell phone but not the  
24 landline?

25 A. On the cell phone, correct.



1 Q. And this was late October 2014?

2 A. Yes.

3 Q. And when was the first time you actually had a  
4 conversation back and forth with Sarita Johnson?

5 A. Two weeks after that.

6 Q. Was there an explanation as to the delay?

7 A. No. She said she meant to call me back and she  
8 never got a chance to.

9 Q. Did she explain what was keeping her busy during  
10 those two weeks?

11 MR. PERRI: Objection.

12 THE COURT: Overruled.

13 Q. Was there any explanation given to you?

14 A. No.

15 Q. So now you spoke to her, let's say, about November  
16 13, November 14, 2014, yes?

17 A. Yes, somewhere around there.

18 Q. So you had this conversation and do you remember  
19 what the substance of that conversation was?

20 A. Yes. I explained to her that I had the case and I  
21 needed to sit down and talk to her and her daughter.

22 Q. Did you invite her to come to your precinct, give  
23 her the address, et cetera?

24 A. Yes.

25 Q. How far away -- now, this is the precinct on Dutch

1 Broadway, right?

2 A. Yes.

3 Q. How far away in terms of tenths of miles, miles, is  
4 the home at 301 Coventry Road North from your precinct on  
5 Dutch Broadway?

6 A. Maybe five miles. I would say about ten, 15  
7 minutes ride.

8 Q. I think you can probably make it faster than ten or  
9 15 minutes, right?

10 A. If there is an emergency.

11 MR. PERRI: Objection, your Honor.

12 Q. Did you offer to go and pick her up and bring her  
13 back to the precinct?

14 A. Initially, no.

15 Q. Did she offer to come to the precinct?

16 A. Initially what I asked her was to come in and talk  
17 to me in the precinct.

18 Q. And did she say there would be any difficulty in  
19 her doing that?

20 A. At the time, no.

21 Q. There are buses that run up and down Dutch  
22 Broadway, right?

23 A. Yes.

24 Q. So now you had this phone conversation in  
25 mid-November, but you didn't actually sit down and have a

1 conversation face to face until December 10th, is that  
2 accurate?

3 A. Yes.

4 Q. What was that delay about?

5 A. Well, we kept playing phone tag. I finally was  
6 able to set up a date on that day.

7 Q. So there was no emergency to have this  
8 conversation, right?

9 MR. PERRI: Objection.

10 THE COURT: Sustained as to the  
11 characterization.

12 Q. Did you rush to have this conversation?

13 A. I attempted to contact her and sit down with her.

14 Q. Right. You did everything you could to make  
15 yourself amenable to having this conversation, right?

16 A. Yes.

17 Q. And in December of 2014 were there any female  
18 detectives working the same shift as you were?

19 A. I don't remember.

20 Q. Did you ever have a conversation with your  
21 detective lieutenant about you, as a male detective, having a  
22 conversation with an underaged female?

23 A. No.

24 Q. Had you ever done that before, investigated  
25 something involving a child witness?

1 A. Yes.

2 Q. Investigating something involving a female child  
3 witness?

4 A. Yes.

5 Q. And there are rules and protocols for that, right?

6 MR. PERRI: Objection.

7 THE COURT: Overruled.

8 A. No, not that I'm aware.

9 Q. There are no rules about speaking to child  
10 witnesses?

11 A. No. If they're a witness, they get interviewed.

12 Q. You went to the Nassau County Police Academy?

13 A. Yes.

14 Q. For how long?

15 A. Eleven years ago.

16 Q. Right, but for six months?

17 A. For six months.

18 Q. And was there ever any training while you were at  
19 the police academy about dealing with child witnesses?

20 A. Yes.

21 Q. You remember that?

22 A. Yes.

23 Q. Did you have like a binder and notes about that?

24 A. No.

25 Q. And when you became a detective, did you receive

1 any additional training?

2 A. Yes.

3 Q. And did that additional training deal with child  
4 witnesses or with allegations of special victims?

5 A. Yes.

6 Q. Did you take notes about that?

7 A. During training?

8 Q. Yes.

9 A. No.

10 Q. Now, there was finally a decision to have a  
11 conversation face to face with both Millinia and Sarita  
12 Johnson, so you left your squad on Dutch Broadway and you  
13 went to the home, correct?

14 A. Yes.

15 Q. And did you ever have any conversations with the  
16 detective lieutenant about going by yourself or bringing  
17 somebody with you?

18 A. No.

19 Q. So you decided to go. You were working a four to  
20 12 that night?

21 A. It was a night tour.

22 Q. During the week?

23 A. Yes.

24 Q. So you went there and did Sarita Johnson  
25 specifically ask you to call as you were arriving at the

1 house?

2 A. No.

3 Q. So when you arrived at the house, had you, you  
4 know, looked on a map before leaving the squad to go to  
5 Coventry Road North?

6 A. Yes.

7 Q. Were you familiar with that street? Had you ever  
8 been there before?

9 A. I have driven there.

10 Q. It's a quiet street, right?

11 A. Yes.

12 Q. A little bit off the beaten path?

13 A. A little.

14 Q. But you were able to find your way there consulting  
15 maps and looking at the different computer options there are  
16 to find the place, right?

17 A. Yes.

18 Q. So you pulled up and do you recall Sarita Johnson  
19 being at her door?

20 A. No. I actually called her.

21 Q. Where were you when you made this call?

22 A. In front of her house.

23 Q. So you had stopped your police vehicle and you  
24 called her sitting outside of her house?

25 A. I don't remember if she was sitting. I think she

1 was inside.

2 Q. Where you were, you were sitting.

3 A. Oh, I was right in front of the house.

4 Q. Did you pull into the driveway or you were just  
5 parallel parked?

6 A. Outside on the street.

7 Q. And you were not driving a marked Nassau County  
8 police vehicle, correct?

9 A. Correct.

10 Q. But was it an unmarked vehicle that even to the  
11 untrained eye people know is probably a police vehicle?

12 A. Yes.

13 Q. You didn't have like the little cherry top on top  
14 of the vehicle, right?

15 A. No.

16 Q. This was not an emergency situation, right?

17 A. Yes.

18 MR. PERRI: Objection.

19 THE COURT: Overruled.

20 Q. Could you tell us the make and model of your  
21 vehicle?

22 A. Crown Vic.

23 Q. Now, did you have a computer in the vehicle?

24 A. No.

25 Q. You didn't have one of those laptops that kind of

1 sits?

2 A. Unfortunately not.

3 Q. So you didn't have one that was attached to the Vic  
4 and you didn't have kind of a typical laptop that many people  
5 would carry around for their jobs?

6 A. No.

7 Q. So fair to say you just had your little pad?

8 A. Yes.

9 Q. So you were just taking notes the same way a police  
10 officer might have done 50 years ago, a hundred years ago,  
11 fair to say?

12 A. I guess.

13 MR. PERRI: Objection.

14 THE COURT: Overruled.

15 MR. ZERNER: I'll move on, your Honor.

16 Q. Now, you called Ms. Johnson, she was in the house  
17 and did she invite you into the house?

18 A. No.

19 Q. Now, in your training, does that indicate anything  
20 to you if somebody doesn't invite you into their house?

21 MR. PERRI: Objection.

22 THE COURT: Sustained.

23 Q. Did it ever occur to you that perhaps there was a  
24 reason she didn't want you in her home?

25 MR. PERRI: Objection.



1 THE COURT: Sustained.

2 Q. So now, when Sarita and Millinia Johnson exited  
3 their home, did they exit together?

4 A. Yes.

5 Q. Do you remember if it was light out or dark out?

6 A. It was light out.

7 Q. It was December 10th, right?

8 A. Yes.

9 Q. So some of the shortest days of the year?

10 A. I guess.

11 Q. It gets dark early around December 10th?

12 A. Yes.

13 Q. So do you remember what the weather was like that  
14 day?

15 A. It was clear.

16 Q. Were they wearing jackets when they came out?

17 A. Yes.

18 Q. Were they carrying anything in their hands?

19 A. Ms. Johnson, Ms. Sarita Johnson had her pocketbook  
20 with her.

21 Q. So Ms. Sarita Johnson had her pocketbook. Did she  
22 have her cell phone with her?

23 A. I don't remember.

24 Q. Do you remember if she had with her two other cell  
25 phones with her?

1           A.    Well, she took them out her pocketbook when I asked  
2 her for the cell phones.

3           Q.    Eventually when you talked about the cell phones,  
4 she didn't have to go back inside to get them, she already  
5 had them, right?

6           A.    Yes, she had them.

7           Q.    Do you remember what time they first exited their  
8 home and came out to your vehicle?

9           A.    Somewhere around 6:30.

10          Q.    6:30 on December 10th?

11          A.    Yes.

12          Q.    So it would have been dark out at that point,  
13 right?

14          A.    It wasn't dark yet.

15          Q.    So now you're sitting right outside her front door.  
16 Do you remember where each person sat in the car?

17          A.    Yes.

18          Q.    Could you tell us where Sarita Johnson sat?

19          A.    She sat on the front passenger seat.

20          Q.    Can you tell us where Millinia Johnson sat?

21          A.    Millinia sat in the back behind Ms. Sarita Johnson.

22          Q.    Now, your vehicle is an unmarked police car. Is  
23 there any kind of barrier separating the front and back  
24 seats?

25          A.    No.

1 Q. Is there a removable barrier?

2 A. No.

3 Q. So now when, if ever, did Sarita Johnson tell you  
4 that she wanted to have this conversation but not in front of  
5 her home?

6 A. We started to speak for maybe about five minutes  
7 and then she asked me if I could -- she was a little  
8 uncomfortable while we were conversing the first five  
9 minutes. Then she asked me if I could just drive somewhere  
10 else, she'll be more comfortable to sit down and talk. She  
11 doesn't want people in her business.

12 Q. Did you offer to drive her back to the precinct?

13 A. No, I didn't.

14 Q. Did you offer to take her to, you know, a coffee  
15 shop or a restaurant?

16 A. No.

17 Q. So did she suggest a place where you could go  
18 speak?

19 A. No.

20 Q. Did she tell you why you couldn't speak in the  
21 home?

22 MR. PERRI: Objection.

23 THE COURT: Overruled.

24 A. She said that she didn't want people in her  
25 business.

1 Q. So how many minutes was this conversation? You  
2 said five minutes right outside and then you went to this  
3 Eagle Avenue Elementary School. How many minutes did you  
4 talk, the three of you, in the vehicle at Eagle Avenue  
5 Elementary?

6 A. Altogether?

7 Q. Well, I would like to break it down. There was a  
8 point in time the three of you were in the vehicle. Let's  
9 talk about that. I'm going to ask you how many minutes that  
10 was. Then there is a point in time when it's just you and  
11 Millinia.

12 When it's the three of you, how many minutes was  
13 that?

14 A. All estimates now. About 15, 20 minutes with Ms.  
15 Sarita Johnson, and Millinia, maybe a half an hour.

16 Q. Did Sarita Johnson ever tell you that she witnessed  
17 any untoward sexual act between Ray Ross and Millinia  
18 Johnson?

19 A. No.

20 Q. She never witnessed anything?

21 MR. PERRI: Objection.

22 THE COURT: Well, as to the question, she  
23 never told the detective?

24 MR. ZERNER: I'll rephrase.

25 THE COURT: Thank you.

1 Q. So Millinia was able to hear the entire  
2 conversation that you were having with Sarita for those 15 to  
3 20 minutes, correct?

4 A. Yes.

5 Q. Is it fair to say that Sarita was telling you about  
6 her household?

7 A. Just whatever was related to Millinia.

8 Q. But she told you that her sister Tara lived in the  
9 household, correct?

10 A. Yes.

11 Q. And she told you who else lived in the household,  
12 correct?

13 MR. PERRI: Objection, hearsay.

14 THE COURT: No, overruled.

15 Q. Please answer the question, Detective.

16 A. Yes. She said her sister lived in the house and  
17 her sister had children in the house and she had other kids  
18 in the house as well.

19 Q. Did you do any searches before you had this meeting  
20 looking up property records or driver's license or anything  
21 like that to learn anything about that household?

22 A. I looked up on Swift Justice, our police database,  
23 just to see if there was any prior incident or anything like  
24 that to see if I could get any information before then.  
25 That's all I did.

1 Q. What did you learn?

2 MR. PERRI: Objection.

3 THE COURT: Sustained.

4 Q. So you spoke for 15 to 20 minutes. Millinia heard  
5 everything you were talking about and then at what point in  
6 time did you determine that Sarita should exit the vehicle?

7 A. When I was done speaking with Ms. Sarita, then I  
8 asked her that I need to speak with the daughter.

9 Q. So where did Sarita go while you were talking to  
10 Millinia?

11 A. She exited the car, but she stayed in the parking  
12 lot.

13 Q. So it was -- school hours were long over. You are  
14 at an empty parking lot of an elementary school?

15 A. Yes.

16 Q. It was the middle of December. It was dark at that  
17 point?

18 A. It started to get dark.

19 Q. So Sarita was just standing outside the vehicle?

20 A. Yes.

21 Q. Was there a bench or anyplace for her to sit?

22 A. No.

23 Q. How far from the vehicle was she standing while  
24 this conversation continued?

25 A. Maybe four, five feet.

1 Q. Four or five feet. So she was closer to the  
2 vehicle than I am to you right now?

3 A. Yes, at times. She was outside walking, facing,  
4 standing.

5 Q. Fair to say I'm about 15 feet away from you right  
6 now?

7 A. Yes.

8 Q. And she was closer?

9 A. Yes, at times.

10 Q. Were there times when she was leaning on the  
11 vehicle?

12 A. No.

13 Q. Now, when you were having a conversation, just you  
14 and Millinia, where was Millinia sitting?

15 A. She was sitting in the back.

16 Q. So she never left the back and came up front?

17 A. No, she stayed in the back.

18 Q. So if you can show us how were you sitting when you  
19 were having this conversation with this 13-year-old girl in  
20 the back?

21 A. I just turn around just like that and I spoke to  
22 her.

23 Q. Are there bucket seats in the front of your  
24 unmarked car?

25 A. I'm sorry?

1 Q. Are the seats -- is it a bench seat in the front of  
2 your vehicle or are they separated from each other like with  
3 an armrest or something in the middle?

4 A. Separated with an armrest.

5 Q. So you were able to turn your body about 90 degrees  
6 to have this conversation?

7 A. Yes.

8 Q. That's fair to say?

9 A. Yes.

10 Q. When you initially were talking about Sarita  
11 Johnson, were you taking notes in your pad?

12 A. Yes.

13 Q. And were you numbering those pages as you were  
14 having those -- taking those notes?

15 A. No.

16 Q. And then you flipped through to a blank page and  
17 kept on talking with Millinia?

18 A. Yes.

19 Q. And you were asking her questions and you were  
20 writing at the same time?

21 A. Yes.

22 Q. Did you have a conversation specifically with  
23 Millinia about when she first got a cell phone?

24 A. Could you be more clear?

25 Q. Yes.



1 MR. ZERNER: If he can be shown --

2 MR. PERRI: Objection.

3 MR. ZERNER: -- People's 12.

4 THE COURT: Hold it, Mr. Zerner. Your  
5 adversary is standing raising an objection.

6 The objection is overruled because the witness  
7 answered that he didn't quite understand the question  
8 and asked for a clarification. Next question,  
9 Mr. Zerner.

10 MR. ZERNER: Thank you, your Honor.

11 Q. If People's 12 -- you know what, let's make it --  
12 scratch that.

13 You were given two cell phones that night, correct?

14 A. Yes.

15 Q. Who owned those cell phones?

16 A. I didn't ask who owned them.

17 Q. You didn't ask who owned them, but you had a  
18 consent to search form filled out, correct?

19 A. Yes.

20 Q. When did you provide this consent to search form?

21 A. When I went back -- the same night.

22 Q. So you had this conversation, you take handwritten  
23 notes, then you drop the two women back off at the home. You  
24 went back on Dutch Broadway to your precinct?

25 A. Yes.

1 Q. Filled out forms and when you returned, you  
2 returned with blank consent to search forms for the cell  
3 phones?

4 A. Yes.

5 Q. And how many blank forms did you bring with you?

6 A. Two.

7 Q. You don't typically keep them with you in your car?

8 A. Sometimes.

9 Q. But you specifically brought two pages with you,  
10 right?

11 A. Yes.

12 Q. So when you were having this conversation, let's  
13 break this down, first with Sarita Johnson, did Sarita  
14 Johnson tell you who owned the older cell phone?

15 MR. PERRI: Objection.

16 THE COURT: Asked and answered. He said he  
17 didn't ask.

18 Q. You didn't ask and you weren't told, correct?

19 MR. PERRI: Objection.

20 THE COURT: Overruled.

21 A. The first cell phone?

22 Q. Let's talk about the older cell phone first, yes.

23 A. No. She handed it to me. She said this was  
24 Millinia's cell phone.

25 Q. So Sarita Johnson told you that this was Millinia

1 Johnson's phone, right?

2 A. Yes.

3 Q. And did you ever search any records from any  
4 company to determine who paid for that cell phone?

5 A. No.

6 Q. And you accepted the representation being given to  
7 you that this was a phone that was owned and controlled by  
8 Sarita Johnson, correct?

9 A. By Millinia, yes.

10 Q. Millinia told you that was her phone, right?

11 A. Yes.

12 Q. And you made an assumption that it was given to her  
13 by her mother?

14 MR. PERRI: Objection.

15 THE COURT: Sustained.

16 Q. Did you ever come to learn that that phone was  
17 actually bought for her by her father?

18 A. No.

19 Q. Have you ever spoken with Rafael Mickens?

20 A. Who?

21 Q. You don't know who Rafael Mickens is, do you?

22 A. No.

23 Q. Rafael Mickens is Millinia Johnson's father. Have  
24 you ever learned that?

25 MR. PERRI: Objection.

1 THE COURT: Sustained as to the form of the  
2 question.

3 Q. Did you ever do any investigation as to who the  
4 father of this child was?

5 A. No.

6 Q. To this date, that first time you heard that name  
7 was just now, correct?

8 A. Yes.

9 Q. All right.

10 Now, eventually you took possession of these two  
11 different phones, right?

12 A. Yes.

13 Q. And did you know what cell phone provider these  
14 phones were connected to?

15 THE COURT: When? At what time?

16 MR. ZERNER: I'm sorry. Let me take that  
17 away. That's probably the worst question I ever asked.

18 Q. Sprint, Verizon, these different cell phones  
19 companies are attached to phones, correct?

20 A. I guess.

21 Q. Well, every cell phone needs a company to provide  
22 it service; is that fair to say, if you know?

23 A. I'm afraid I don't know.

24 Q. To the best of your knowledge, these two cell  
25 phones were both able to be used on December 10, 2014 when

1 they were handed to you, correct?

2 A. No, they were disconnected, I believe. I don't  
3 think there was service on them.

4 Q. Well, how do you know?

5 A. The mother told me they were disconnected.

6 Q. So that was her representation to you?

7 A. Yes.

8 Q. And again, is it fair to say that you made the leap  
9 that the mother actually had purchased this cell phone?

10 MR. PERRI: Objection.

11 THE COURT: Sustained.

12 Q. Now, you told us that you spoke to the mother and  
13 daughter together for approximately 45 minutes; is that fair  
14 to say?

15 A. Yes.

16 Q. And then did you drop them off back at their home?

17 A. Yes.

18 Q. Did you offer to take them with you back to your  
19 precinct on Dutch Broadway?

20 A. No.

21 Q. Why not?

22 A. I just wanted to drop them off home and then went  
23 back in case something came up I had to do for that night. I  
24 was working.

25 Q. So you dropped them off back at 301 Coventry?

1 A. Right.

2 Q. And you drove yourself back to Dutch Broadway?

3 A. Yes.

4 Q. And you did some typing and some work on these  
5 cases?

6 A. Yes.

7 Q. But you didn't contact any kind of database to see  
8 who owned these cell phones, right?

9 A. No.

10 Q. You have access to information to do that though,  
11 right?

12 A. I can subpoena them, yes.

13 Q. Well, you can get records like that faster than a  
14 subpoena, can't you?

15 MR. PERRI: Objection.

16 THE COURT: Sustained.

17 Q. Did you have a conversation with your detective  
18 lieutenant about the case when you got back to your squad?

19 A. No.

20 Q. So you typed up some documents, took some blank  
21 documents and went back to the home?

22 A. Yes.

23 Q. When you went back to the home, did you bring a  
24 female officer with you?

25 A. No.

1 Q. You told us there were no female detectives working  
2 that night?

3 A. I don't remember.

4 Q. But there was certainly female police officers  
5 working that night, right?

6 A. Maybe, I don't know.

7 Q. What percentage of the Nassau County Police  
8 Department would you say is female right now?

9 MR. PERRI: Objection.

10 THE COURT: Sustained.

11 Q. So you took the information that you were given by  
12 Sarita Johnson and you said you drove to National Wholesale  
13 Liquidators?

14 A. Yes.

15 Q. Was that the same night or a different night?

16 A. The same night.

17 Q. What are the hours of National Wholesale  
18 Liquidators?

19 A. I don't know.

20 Q. Do you know who runs National Wholesale  
21 Liquidators?

22 A. No.

23 Q. Did you ever make any efforts to find out?

24 A. No.

25 Q. And you said you just looked around the parking

1 lot?

2 A. Yes.

3 Q. And just with the naked eye you were looking around  
4 to see if you could find any surveillance cameras?

5 A. Yes.

6 Q. In 2014, 2016, is it fair to say there are small  
7 cameras around?

8 A. Yes.

9 Q. It's fair to say it's not always obvious when there  
10 are surveillance cameras?

11 MR. PERRI: Objection.

12 THE COURT: Overruled.

13 A. Yes.

14 Q. But you looked around, didn't find any and you  
15 didn't contact the headquarters of the company to find out  
16 about surveillance, right?

17 A. I have had dealings with Wholesale Liquidator  
18 before and I know for a fact that they don't have cameras in  
19 the parking lot.

20 Q. When was that information gathered by you?

21 A. In the past from a prior dealing that I had with  
22 them.

23 Q. So you have been on the job since 2005?

24 A. Four.

25 Q. So 11 and a half years ago, so from 2004 until late



1 2014 it was your understanding that there were no cameras at  
2 National Wholesale Liquidators?

3 A. Yes.

4 Q. But you are aware that these cameras have become  
5 less and less expensive over the years, correct?

6 MR. PERRI: Objection.

7 THE COURT: Sustained.

8 Q. You are aware that it's possible that just because  
9 a place didn't have cameras in 2004 doesn't mean that they  
10 wouldn't have gotten cameras into 2013, 2014, correct?

11 MR. PERRI: Objection.

12 THE COURT: Sustained.

13 Q. So in 2014 you never went inside of National  
14 Wholesale Liquidators in connection with your investigation  
15 in this case?

16 A. No.

17 Q. Where is the Western Beef?

18 A. It's on Hempstead Avenue.

19 Q. And was it open, you know, an active open business  
20 at the end of 2014?

21 A. I don't know what the relationship to National  
22 Wholesale Liquidators.

23 Q. So your conversations with Sarita and Millinia  
24 Johnson, there was never any allegation that Mr. Ross did  
25 anything at the Western Beef parking lot?

1 MR. PERRI: Objection, hearsay.

2 THE COURT: No, overruled.

3 A. No.

4 Q. So if Sarita Johnson said something about Western  
5 Beef in this courtroom this week, she never said it to you  
6 before?

7 MR. PERRI: Objection.

8 THE COURT: Sustained.

9 MR. ZERNER: If I can just have a moment with  
10 my client, Judge.

11 (Pause in the proceedings.)

12 Q. You were earlier on shown photographs of a cell  
13 phone, right? I believe that's People's 6 and 7, right? You  
14 were shown those photographs, Detective?

15 A. Yes.

16 Q. And did you take those photographs?

17 A. No.

18 Q. Did you print those photographs?

19 A. No.

20 Q. Had you ever seen that photograph of a cell phone  
21 before today?

22 A. Yes, I have.

23 Q. You saw it when you testified in the grand jury?

24 A. I don't remember if I saw them at grand jury, but I  
25 saw them prior to today.

1 Q. But you don't remember when?

2 A. Yeah.

3 MR. ZERNER: I don't have anything else for  
4 this witness at this time, your Honor.

5 THE COURT: All right, ladies and gentlemen,  
6 it's a good time to break, so enjoy your lunch.  
7 Remember my admonitions. Forget about the case until  
8 you come back here 2:00 p.m. to continue testimony on  
9 the trial, okay.

10 (Whereupon, the jury exited the courtroom.)

11 THE COURT: Detective, I am going to ask you  
12 to come back at 2:00 p.m. Go out and enjoy your lunch.  
13 Please don't talk to anybody about your testimony while  
14 you are on break.

15 THE WITNESS: Okay, Judge.

16 (Whereupon, the witness exited the courtroom.)

17 THE COURT: Mr. Perri, with regard to the  
18 Detective Toussaint, do you anticipate having some  
19 redirect?

20 MR. PERRI: Possibly, your Honor, but  
21 extremely brief.

22 THE COURT: It's okay. We had to break at  
23 12:30.

24 MR. PERRI: I understand.

25 THE COURT: You will have another witness this

1           afternoon?

2                   MR. PERRI: Yes, your Honor.

3                   THE COURT: How long is that witness?

4                   MR. PERRI: I don't anticipate him -- I would  
5           assume my questions will take approximately a half hour.

6                   THE COURT: That's one witness and that's the  
7           phone record witness?

8                   MR. PERRI: Yes, your Honor.

9                   THE COURT: Very good.

10                  MR. PERRI: Thank you, your Honor.

11                  THE COURT: See you at two.

12                  (A luncheon recess was taken.)

13                  (Whereupon, the following was recorded and  
14           transcribed by Wendy Silas, Senior Court Reporter.)

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Proceedings

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A F T E R N O O N   S E S S I O N

(People's Exhibits 14A through 14D and 15 through 17 marked for identification.)

THE CLERK: Continued case on trial People v. Ray Ross, all parties present except for the jury.

People ready?

MR. PERRI: Yes, your Honor, ready.

THE CLERK: Defense ready?

THE COURT: Is the defense ready?

MR. ZERNER: I'm ready subject to some premarkings going on.

I just want to know what's being premarked, for the record.

THE COURT: Okay, so in an effort to be more efficient the Court generally asks counsel to premark exhibits with the court reporter.

So, Mr. Perri, what are you premarking?

MR. PERRI: Your Honor, in anticipation of the testimony of Kelly Walker, a custodian of records of the Sprint Corporation, the People have premarked the cell phone records of the defendant. They are from March 1st of 2013 through October 17th of 2014, a CD of these records was provided to counsel prior to jury selection, that these are just the printed-out copies that were on the CD and Excel spreadsheets as well as

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1 pdf documents that were provided to the District  
2 Attorney's Office from the Sprint Wireless Corporation  
3 and that's 14A through D.

4 15, 16 and 17 are merely duplicates of the  
5 call detail reports as well as the call record reports  
6 that are part of this, with the only difference being  
7 that they have the number 516-514-4438 highlighted on  
8 them.

9 THE COURT: So they're the records of --

10 MR. PERRI: The defendant --

11 THE COURT: -- of use of the phone?

12 MR. PERRI: Yes, your Honor.

13 THE COURT: For a certain period of time?

14 MR. PERRI: Yes, your Honor.

15 THE COURT: From when to when?

16 MR. PERRI: From March 1st of 2013 through  
17 October 17th of 2014, which would encompass the time  
18 period of the course of conduct.

19 THE COURT: But it has every phone call made,  
20 you're saying, and received, I guess.

21 MR. PERRI: Yes, your Honor.

22 THE COURT: And it couldn't be limited in any  
23 other way?

24 MR. PERRI: For the actual business records  
25 from Sprint, no, your Honor, they will not testify or

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1 authenticate altered records. They will only --

2 THE COURT: I'm just asking could it have  
3 been provided in a more limited fashion, to your  
4 knowledge. We'll get the testimony.

5 MR. PERRI: To my knowledge, no, your Honor.  
6 From what I was told they could not -- they will not  
7 authenticate altered or minimized records.

8 THE COURT: We'll deal with that later.

9 All right, so, Mr. Kerner, you understand  
10 what's being premarked?

11 MR. KERNER: I do.

12 THE COURT: All right, we're ready?

13 MR. PERRI: Yes, your Honor.

14 THE COURT: Please have him come in.

15 MR. PERRI: Your Honor, the People don't have  
16 any redirect.

17 THE COURT: Well, we have to dismiss him.

18 MR. PERRI: I understand.

19 (Witness resumes the stand.)

20 (Jury enters.)

21 THE CLERK: Let the record reflect the  
22 presence of the jury.

23 Detective, you're still under oath.

24 Are the People ready?

25 MR. PERRI: Yes, your Honor.

Proceedings

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1 THE CLERK: Defense ready?

2 MR. KERNER: We are.

3 THE COURT: Okay, ladies and gentlemen,  
4 welcome back.

5 When we broke for lunch the cross-examination  
6 of the witness was concluded.

7 Now the People have the opportunity, but not  
8 a requirement, to have a redirect examination of the  
9 witness, so we're going to put the question to  
10 Mr. Perri.

11 Any redirect?

12 MR. PERRI: Your Honor, the People do not  
13 require any redirect of this witness, thank you.

14 THE COURT: All right, detective, thank you,  
15 your testimony is concluded. You may leave.

16 THE WITNESS: Thank you, Judge.

17 THE COURT: Have a good day.

18 THE WITNESS: Thank you.

19 (Witness excused.)

20 THE COURT: Okay, ladies and gentlemen, I was  
21 informed that one of you might want to take notes.

22 Understanding that I've already instructed  
23 you that no note taking is permitted, I cannot allow  
24 you to take notes on your own, okay?

25 If note taking was going to be permitted, you



## Proceedings

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1 would have taken your notes during the course of the  
2 testimony while you were sitting here in the courtroom  
3 and at the end of each day the court officer would  
4 collect those notebooks, okay?

5 Now, remember the reasons why. You can't  
6 make any final conclusions or determinations until the  
7 end of the case when you go back into the jury room and  
8 start your deliberations, okay?

9 If there's anything that you need to have  
10 read back, any type of testimony whatsoever, all you  
11 have to do is, once you're released to deliberations,  
12 have a note, have the jury foreperson sign the note and  
13 it will be given to me and we'll make that happen,  
14 okay?

15 So just in your mind if there's a point that  
16 you would have taken a note on, hold it in your mind.  
17 You'll be able to do that and we'll get the entire  
18 issue resolved through the readback of the particular  
19 testimony or issue that needs to be refreshed for you,  
20 okay?

21 All right, Mr. Perri, next?

22 MR. PERRI: Your Honor, the People call  
23 Mr. Kelly Walker.

24

25

Walker - People - direct

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1 K E L L Y W A L K E R, a witness called on behalf of the  
2 People, having been first duly sworn by the clerk of  
3 the court, was examined and testified under oath as  
4 follows:

5 THE CLERK: Please have a seat.

6 State your name, spell your last name, give  
7 your place of business.

8 THE WITNESS: Kelly Walker, W-a-l-k-e-r, and  
9 I work for Sprint Corporation.

10 THE COURT: Mr. Perri?

11 MR. PERRI: Thank you, your Honor.

12 DIRECT EXAMINATION

13 BY MR. PERRI:

14 Q. Good afternoon, Mr. Walker.

15 A. Good afternoon.

16 Q. Mr. Walker, you testified -- you just stated that  
17 you work for the Sprint Corporation.

18 How long have you worked for Sprint?

19 A. Six years.

20 Q. And what's your current position with Sprint?

21 A. Records custodian.

22 Q. Could you please explain to the jury what the  
23 responsibilities are of a records custodian for Sprint?

24 A. What we do is we responded to legal demands such  
25 as subpoenas, court orders and search warrants, provide the

Walker - People - direct

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1 information as well as what we do today, show up and  
2 authenticate that information.

3 Q. And before coming here today to testify did you  
4 have an opportunity to review Sprint records with respect to  
5 a subscriber Ray Ross at 516-537-6877?

6 A. Yes.

7 Q. And are you a records custodian with respect to  
8 those records?

9 A. Yes.

10 Q. And are you familiar with the types of services  
11 Sprint offers its subscribers?

12 A. Yes.

13 Q. And are you familiar with basic technology  
14 underlying the services Sprint offers with respect to its  
15 wireless subscribers?

16 A. Yes.

17 Q. Could you please explain briefly how a cell phone  
18 works for the jury?

19 A. Pretty much with the network, once you put in the  
20 digits, dial the digits on the keypad of however your device  
21 is set up, and then whether it's a text message or a call  
22 once you hit send and then once it connects and contact the  
23 network, that's when the information is stored and when your  
24 caller text is being sent or received to the other device.

25 MR. PERRI: Your Honor, I ask that what's

Walker - People - direct

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1           been marked for identification as People's 14A through  
2           D be shown to the witness.

3                       (Shown to witness.)

4           Q.   And, Mr. Walker, take a look at the documents in  
5           that pile.

6                       (Pause in the proceedings.)

7           A.   Okay.

8           Q.   Now, Mr. Walker, do you recognize those documents?

9           A.   Yes.

10          Q.   And what do you recognize them to be?

11          A.   Subscriber information, the letter that provides  
12          the subscriber information on an account, copies of a bill  
13          on the billing on the account as well as the actual call and  
14          text message transactions for that phone number.

15          Q.   And does this reflect information with respect to  
16          that account from March 1st of 2013 through October 17th of  
17          2014?

18          A.   Yes.

19          Q.   And are the documents that you've been handed and  
20          you said you recognize, are they made in the regular course  
21          of Sprint's business?

22          A.   Yes.

23          Q.   And is it in the regular course of the business  
24          practices of Sprint to keep those records?

25          A.   Yes.

Walker - People - direct

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1 Q. Are those documents made at or about the times the  
2 events indicated therein are recorded?

3 A. Yes.

4 Q. And is Sprint under a business duty to accurately  
5 create and to maintain those records?

6 A. Yes.

7 MR. PERRI: Your Honor, I ask that those  
8 records be moved into evidence.

9 THE COURT: Mr. Zerner?

10 MR. KERNER: Brief voir dire, your Honor?

11 THE COURT: You may.

12 MR. KERNER: If I may, please?

13 I'll help you if you need to.

14 (Shown to counsel.)

15 VOIR DIRE EXAMINATION

16 BY MR. KERNER:

17 Q. Mr. Walker, when were these printouts created?

18 A. I would need that -- the letter to look at it.

19 Q. You're asking me back for 14A for ID?

20 A. Yes.

21 (Shown to witness.)

22 A. This doesn't have the front page on there.

23 It would have been sometime towards the end of  
24 last year would be when they was printed up and sent out. I  
25 don't have the actual date. The first page is not on there

Walker - People - direct

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1 that would show the actual date.

2 Q. So you're saying there was a page that was created  
3 for these records that isn't among those thousands of pages  
4 of documents that are 14A, B, C and D?

5 A. The cover page.

6 Q. Have you ever seen a cover page?

7 A. Yes, it's on the CD.

8 Q. Did you print out these documents?

9 A. No.

10 Q. Who printed out these documents?

11 A. The District Attorney.

12 MR. PERRI: Your Honor, it sounds like  
13 there's a page we need.

14 THE COURT: Okay, Mr. Perri, is there a --  
15 (Shown to counsel.)

16 MR. ZERNER: I still have more questions, but  
17 that's the first one.

18 THE COURT: Ladies and gentlemen, I'm going  
19 to give you a five-minute break, okay?

20 Please follow the direction of the court  
21 officer.

22 (Jury exits.)

23 THE COURT: Mr. Walker, I'm going to give you  
24 a five-minute break, okay?

25 THE WITNESS: Yes.

Walker - People - direct

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1 THE COURT: Please step outside, relax.

2 Don't chat with anyone about your testimony.

3 (Witness steps down.)

4 THE COURT: All right, can I see counsel for  
5 a second?

6 (Discussion held at the bench, off the  
7 record.)

8 THE COURT: We stand in recess for five  
9 minutes.

10 (Recess taken in the proceedings.)

11 THE CLERK: Remain seated, come to order,  
12 court is reconvened.

13 All parties present, Judge, except the jury.

14 THE COURT: Please bring the jury back --  
15 witness first, then the jury.

16 (Witness resumes the stand.)

17 (Jury enters.)

18 THE CLERK: Let the record reflect the  
19 presence of the jury, all parties present.

20 People ready?

21 MR. PERRI: Yes, your Honor.

22 THE CLERK: Defense ready?

23 MR. ZERNER: Yes, thank you.

24 THE COURT: Welcome back, ladies and  
25 gentlemen.

Walker - People - direct

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1 Mr. Perri, do you ask to add one page to your  
2 Exhibit 14A for identification?

3 MR. PERRI: Yes, your Honor.

4 THE COURT: All right, that will be so added.

5 MR. KERNER: Do we want to staple this on,  
6 your Honor?

7 THE COURT: You can.

8 (Shown to witness.)

9 THE COURT: Mr. Zerner, you may continue your  
10 voir dire.

11 MR. KERNER: Thank you, your Honor.

12 Q. Mr. Walker, you said you needed another page to  
13 help you understand about the records.

14 I believe that's been provided to you?

15 A. Yes.

16 Q. So taking a look at the People's 14A for  
17 identification with the new page, my question to you is who  
18 asked for these records to be provided?

19 A. Nora, if I'm pronouncing it right, Ammirati.

20 Q. And did she ask you personally for those records?

21 A. No, it was Sprint.

22 Q. And Sprint's located where?

23 A. Overland Park, Kansas.

24 Q. And is that where your office is personally, sir?

25 A. Yes.



Walker - People - direct

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1 Q. And is your name in that letter?

2 A. No.

3 Q. It is Chad Howell?

4 A. Yes.

5 Q. Who is Chad Howell?

6 A. He's a subpoena specialist.

7 Q. And is he the same level as you in the company?

8 A. No, he's a notch up under me.

9 Q. He's under you?

10 A. Yes.

11 Q. Okay, so who determined that you personally would  
12 come here?

13 MR. PERRI: Objection.

14 THE COURT: Yeah, sustained.

15 Q. When was the first time that you personally saw  
16 these records?

17 A. Today.

18 Q. Today?

19 A. Um-hum.

20 Q. Do you know how many pages People's B, C and D are  
21 in total?

22 A. A lot.

23 Q. Have you personally looked at each and every one  
24 of these pages?

25 A. Through it, yes.

Walker - People - direct

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1 Q. Did you look at each one of these pages?

2 A. Yes, when we go through it.

3 Q. Today you did that?

4 A. Yeah, I looked at those and I looked at the CD.

5 Q. Where did you do that?

6 A. At the District Attorney's Office.

7 Q. When did you fly in, sir?

8 A. Today.

9 Q. You flew in today?

10 When are you flying out?

11 A. Today.

12 Q. And who pays for that?

13 A. I guess the state. I don't know.

14 Q. It wasn't Sprint, right?

15 A. No.

16 Q. In fact, your letter says that if anybody wants  
17 you to come in that they have to pay for you to come in,  
18 correct?

19 MR. PERRI: Your Honor, objection.

20 THE COURT: Overruled.

21 Q. So Sprint's not paying for you and you personally  
22 are not paying for it, right, Mr. Walker?

23 A. I mean, we pay what we do in the office and the  
24 state, county, whoever, they do what they do as well.

25 Q. Understood.

Walker - People - direct

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1                   So today is the first day you looked at these  
2 pages and you flipped through each one of these pages?

3                   A.    Um-hum.

4                   Q.    What are you looking for when you flip through  
5 these pages?

6                   A.    Making sure that it is the information that we  
7 provided, making sure that it's Sprint documents.

8                   Q.    Well, how would you know if Page 75 in People's B  
9 for identification -- People's 14B for identification was  
10 right or wrong?

11                  A.    Because based on the Sprint and based on the  
12 information that is requested it comes from our database so  
13 that information is kept in the regular course of business  
14 based on the accuracy that Sprint has to do that in order to  
15 bill the customer.

16                  Q.    Who keeps your database?

17                  A.    Sprint maintains that.

18                  Q.    Where?

19                  A.    It's in Lee Summit, Missouri, Minnesota, several  
20 places.

21                  Q.    Well, where was the one that was involving this  
22 phone for this trial?

23                  A.    I don't know.

24                               MR. PERRI:  Objection.

25                               THE COURT:  Overruled.

Walker - People - direct

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1 Q. So you don't know and you personally don't have  
2 anything to do with the keeping of those records, right?

3 A. No, I'm just here to authenticate what you have.

4 Q. Right, somebody told you to fly out and they gave  
5 you an address to come to, right?

6 A. Well, when we got the subpoena that comes to  
7 Sprint to require and request us to show up to court, that's  
8 what we go by.

9 Q. And then you got a phone call from somebody in the  
10 Nassau County District Attorney's Office last week and they  
11 told you please come in on a particular date and time?

12 A. No, Sprint.

13 Q. Right, not you personally, but Sprint as a  
14 corporation got that call, right?

15 A. Correct, our department.

16 Q. And when did somebody tell you that you  
17 personally, Mr. Walker, were coming?

18 A. Yesterday.

19 Q. So yesterday did you have access to this  
20 information?

21 A. Yes.

22 Q. But you didn't look at it yesterday?

23 A. No.

24 Q. You looked at it this morning?

25 A. Yes.

Walker - People - direct

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1 Q. And you flipped through each and every one of  
2 these pages and you're confident that every one of these  
3 pages is accurate?

4 A. Absolutely.

5 Q. How do you know if there's a mistake in any of  
6 these?

7 A. Because Sprint doesn't do that.

8 Q. Sprint doesn't make mistakes?

9 A. No, everything is based on accuracy, like I say,  
10 in order for the customer to be billed.

11 Q. Okay, Sprint doesn't make mistakes?

12 MR. PERRI: Objection.

13 Q. You said that --

14 THE COURT: Hold it Mr. Zerner, there's an  
15 objection raised to your offhand comment and that  
16 objection is sustained.

17 Q. Now, when Mr. Perri was showing you the various  
18 bound documents he showed you C and D and I believe you said  
19 that they are phone calls and texts, right?

20 A. Correct.

21 Q. Are they intermingled or is C phone calls and D  
22 texts?

23 A. They're all together.

24 Q. They're all intermingled?

25 A. Yes.

Walker - People - direct

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1 Q. Do these records show whether the phone receiving  
2 the call or the text are Sprint phones?

3 MR. PERRI: Your Honor, objection, this is  
4 beyond the scope of voir dire.

5 THE COURT: Sustained.

6 It's voir dire, Mr. Zerner.

7 Q. Did you or a representative of Sprint bind these  
8 documents?

9 A. No.

10 Q. Were they like this, bound, before you got here  
11 today?

12 A. Yes.

13 Q. You heard Mr. Perri state that the time frame  
14 we're talking about is from March 1st, 2013 until October of  
15 2014, right?

16 A. Correct.

17 Q. All right, take a look at first People's B. This  
18 is Page 1.

19 Tell us what date it starts on, Mr. Walker?

20 MR. PERRI: Your Honor, objection.

21 THE COURT: Objection is sustained. This is  
22 voir dire, Mr. Zerner.

23 MR. KERNER: All right, I'll ask a different  
24 question.

25 Q. Are these records in chronological order?

Walker - People - direct

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1 A. Yes.

2 Q. Starting with March 1st, 2013?

3 A. Yes.

4 Q. How do you know that?

5 A. When you go through there and look at the dates.

6 Q. All right, so take a look and please tell me what  
7 the first date on the first page is, sir?

8 MR. PERRI: Objection.

9 THE COURT: Objection sustained.

10 Mr. Zerner, this is voir dire. It's to  
11 authenticate business records.

12 Q. Did you personally create the CD that was used to  
13 print these documents?

14 A. No.

15 Q. Did you ever see the original CD that created  
16 these documents?

17 A. Yes.

18 Q. Did you supervise the person that created it?

19 A. No.

20 Q. Describe how it was created.

21 MR. PERRI: Objection.

22 THE COURT: Yeah, sustained.

23 Q. When was that CD created, sir?

24 A. I believe the date on there was March of 2015.  
25 I need to see that letter again, sorry.

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1 (Shown to witness.)

2 A. September 28, 2015.

3 Q. And did you see that request on September 28th,  
4 2015 personally?

5 A. Nope.

6 Q. When was the first time you personally saw that  
7 request?

8 MR. PERRI: Objection.

9 THE COURT: Again, sustained, Mr. Zerner.

10 MR. ZERNER: I object to these documents  
11 coming into evidence, your Honor.

12 THE COURT: Objection is overruled.

13 14A through D received in evidence over  
14 defense objection.

15 (People's Exhibits 14A through 14D received  
16 in evidence.)

17 MR. PERRI: Your Honor, I ask that People's  
18 14A be returned to the witness.

19 (Shown to witness.)

20 DIRECT EXAMINATION CONT'D

21 BY MR. PERRI:

22 Q. Mr. Walker, can you explain what People's 14A is?

23 A. It's the letter that we send out to get the  
24 subscriber information on the account.

25 Q. And can you explain what the second page, the type



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1 of information that's contained on the second page?

2 A. It gives you the date range, the subject number,  
3 the account details.

4 Q. And can you tell us based on these records who the  
5 account holder is with respect to all these records, who  
6 that person is?

7 A. It shows Ray Ross.

8 Q. And, Mr. Walker, can I ask you what phone number  
9 are these records with respect to?

10 A. 516-537-6877.

11 Q. And, Mr. Walker, I'm asking you today -- and what  
12 information, sorry, what information contained on that page  
13 is there about the account associated with 516-537-6877?

14 A. It gives you -- under account details it gives you  
15 the billing account number, the account-established date,  
16 whether the account is closed or cancelled, account billing  
17 addresses.

18 Q. So, Mr. Walker, can I ask based on the records  
19 contained in People's 14A, was that account active from  
20 October of 2013 to October of 2014?

21 A. Yes.

22 Q. And what was the billing address for that time  
23 period?

24 Did it change?

25 A. Yes.

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1 Q. And what's the current billing address?

2 A. It shows it as PO box 354, West Hempstead, New  
3 York, 11552.

4 Q. And what was the previous billing address?

5 A. 301 Coventry, if I'm pronouncing that correctly,  
6 Road North in West Hempstead, New York, 11552.

7 Q. And when did that billing address change?

8 A. October 28th of 20 -- I mean, sorry, it changes in  
9 October 6th of 2014.

10 MR. PERRI: If I could have that taken from  
11 the witness?

12 (Shown to counsel.)

13 MR. PERRI: Offering People's 14B, ask that  
14 be shown to the witness.

15 (Shown to witness.)

16 Q. And, Mr. Walker, do you recognize People's 14B?

17 A. Yes.

18 Q. And what do you recognize it to be?

19 A. Those are the actual bills that would have been  
20 sent or were asked for the customer to get access to.

21 Q. And if you look at the first page what is the bill  
22 period for the first page of this set of records?

23 A. You mean like 1 through 43 or the actual bill  
24 period.

25 Q. The bill period?

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1 A. It shows it as October 8th through November 7th.

2 Q. And if you could flip to the back --

3 THE COURT: Of what year, sir?

4 THE WITNESS: 2013.

5 Q. And if you could flip to the last page of the  
6 document?

7 What bill period is contained on the last bill  
8 period of this document?

9 A. March 8th through April 7th of 2014.

10 Q. And what kind of information is contained with  
11 respect to the bills contained in this document?

12 A. Only the calls. It's just going to show you the  
13 incoming and outgoing calls.

14 Q. And from the information in these documents as  
15 People's 14B can you tell me who -- what customer these are  
16 with respect to?

17 A. Customer is Ray Ross.

18 Q. And what cell phone number are these with respect  
19 to?

20 A. 516-537-6877.

21 Q. And from these records can you tell the date of  
22 each phone call made?

23 A. Yes.

24 Q. Can you tell the time of each phone call made?

25 A. Yes.

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1 Q. Does it contain the incoming and outgoing phone  
2 numbers?

3 A. Yes.

4 Q. And does it tell you how long the phone calls have  
5 lasted?

6 A. Yes.

7 MR. PERRI: Ask if People's 15 could be shown  
8 to the witness - marked for identification - and  
9 compared with the previous document.

10 (Shown to witness.)

11 Q. Mr. Walker, do you recognize People's 15?

12 A. Yes.

13 Q. And what do you recognize it to be?

14 A. A copy of what we just went over.

15 Q. And are there any differences between the copy  
16 that you currently have as opposed to the one that you were  
17 just viewing?

18 A. Yes, there's some highlighted -- highlights on  
19 there.

20 Q. And is there anything specifically highlighted?

21 A. It's showing a specific call on a specific date  
22 and time.

23 Q. And is there a specific phone number highlighted?

24 A. The first one, it is showing 516-514-4438.

25 Q. And did you have an opportunity before coming here

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1 to review People's 15?

2 A. Yes.

3 Q. And other than highlighting are there any other  
4 alterations made to that document?

5 A. No.

6 Q. You had a chance to compare that to People's 14B?

7 A. Yes.

8 Q. And other than the highlighting are there any  
9 other alterations?

10 A. No.

11 MR. PERRI: Okay, your Honor, I ask that  
12 People's 15 be moved into evidence subject to  
13 connection through Millinia Johnson as demonstrative  
14 evidence.

15 THE COURT: Could you show the exhibit to  
16 adversary counsel, please?

17 (Shown to counsel.)

18 MR. KERNER: If I may, your Honor?

19 THE COURT: You may.

20 VOIR DIRE EXAMINATION

21 BY MR. KERNER:

22 Q. How many pages total is People's 15?

23 A. I don't know.

24 Q. Is it fair to say that it's well over a hundred?

25 A. Could be.

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1 Q. Fair to say it's well over 200?

2 A. I don't know.

3 Q. When did you go page by page comparing 14B and 15?

4 A. Today.

5 Q. And how long did it take you to go page by page to  
6 compare these?

7 A. Probably about no more than five, ten, minutes.

8 Q. So in five or ten minutes you were able to compare  
9 a 200-page document with another 200-page document?

10 A. I didn't say it's 200 pages, but I was able to  
11 compare the documents.

12 Q. All right, well, Mr. Walker here.

13 Take a look at this and tell us how many pages  
14 People's 15 is?

15 MR. PERRI: Objection.

16 THE COURT: Mr. Zerner, he's already answered  
17 the question that he doesn't know how many pages there  
18 are.

19 Next question.

20 Q. Is it fair to say it's approximately 200 pages?

21 A. I couldn't say. I don't know. It's a lot.

22 Q. Would looking at the document help you decide how  
23 many pages it is.

24 A. No.

25 Q. On the top right of these pages it says in bold

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1 print A1 of 30?

2 A. Correct.

3 Q. What does that mean?

4 A. That's just how many pages it is on there for that

5 A.

6 Q. All right, so we got 30 pages there and then it  
7 starts up again.

8 Are you aware of that?

9 A. Yes.

10 Q. When you reviewed this you reviewed every bit of  
11 information on every one of these pages, right?

12 A. Yes.

13 Q. Because otherwise there's no way to know they're  
14 exactly the same, right?

15 MR. PERRI: Objection.

16 THE COURT: No, overruled.

17 A. Yeah.

18 Q. And then it starts again at A31 and there's  
19 another counting, right?

20 A. Um-hum, yes.

21 Q. Where does that one stop?

22 A. I don't know.

23 Q. Right, the first one goes to 30, the second one to  
24 31, the third one to 29.

25 Do you have any idea why?

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1 MR. PERRI: Objection.

2 A. Because that's the numbering of pages.

3 THE COURT: Excuse me, overruled.

4 Q. These are your records, right?

5 Sprint makes these records, correct?

6 A. Correct.

7 Q. There's no formula as to how to make these  
8 records, correct?

9 A. I don't know what you mean by that.

10 Q. Why are some of them 30, some 29, some 31?

11 Why are they kept this way?

12 A. Because it's based on the --

13 MR. PERRI: Objection.

14 THE COURT: Hold it.

15 Sustained.

16 Q. These records show that there was a connection  
17 between phones, but not necessarily between the person who  
18 owns the phone, correct?

19 A. It only gives phones transactions. I don't know  
20 anything about the persons.

21 Q. Do you know the type of phone that was connected  
22 to this by looking at these records?

23 MR. PERRI: Objection.

24 THE COURT: Sustained.

25 MR. KERNER: Your Honor, I object at this



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1 time to People's 15.

2 I don't have any idea how many highlightings  
3 there were.

4 I don't believe that Mr. Walker knows how  
5 many highlightings there were and there's no indication  
6 that he's had the opportunity to actually compare and  
7 contrast hundreds of pages of documents in what he said  
8 was maybe five to ten minutes.

9 THE COURT: Mr. Perri, do you have anything  
10 to say?

11 MR. PERRI: Your Honor, with respect to the  
12 People's application to move it into evidence, although  
13 the witness has testified that he compared them, the  
14 only difference is highlighting, as an officer of the  
15 court the only highlights made on that page -- on the  
16 pages of this document were executed by the People for  
17 demonstrative purposes to aid the jury in their  
18 assessment of the evidence, that no other alterations  
19 to the document were made.

20 I personally made those highlights and we're  
21 asking them to be accepted as demonstrative evidence  
22 for the jury, subject to connection through Millinia  
23 Johnson.

24 THE COURT: Defense objection is overruled.  
25 People's 15 received in evidence over

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1 objection.

2 (People's Exhibit 15 received in evidence.)

3 MR. PERRI: If I could have that back?

4 (Shown to witness.)

5 MR. PERRI: Your Honor, I'm asking if the  
6 witness could leave the stand to be able to see the  
7 screen to help explain to the jury?

8 THE COURT: Mr. Walker, you can step down.  
9 Follow the directions of the court officer.

10 THE WITNESS: Sure.

11 (Witness steps down.)

12 (People's Exhibit 15 displayed at this time.)

13 DIRECT EXAMINATION CONT'D

14 BY MR. PERRI:

15 Q. Mr. Johnson (sic), could you please explain to the  
16 jury with respect to the different information appearing on  
17 this page, specifically under customer, what is the column  
18 or the area of customer?

19 What information does that contain?

20 THE COURT: Mr. Walker, before you answer,  
21 can we identify the exhibit you're putting up?

22 MR. PERRI: I'm sorry, this is the same  
23 exhibit, I'm sorry, People's 15.

24 THE COURT: Now you can answer.

25 Q. So under customer and there's a name Ray Ross,

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1 what does that signify according to these records?

2 A. That's the name that was provided on the account.

3 Q. And on the left side of the page under call  
4 details there appears to be a ten-digit number.

5 What is that number?

6 A. 516-537-6877.

7 Q. And what does that signify?

8 A. That's the primary number on the account.

9 Q. And with respect to below it, in the column date,  
10 what does that signify?

11 A. That's the date of the actual call transaction.

12 Q. And the numbers 1 through 20 on the screen  
13 presently, what does each of those numbers signify?

14 A. That's just a number for that line on the bill,  
15 that's all.

16 Q. And why are there different lines on the bill that  
17 are different colored, gray and white?

18 A. That's just so you can -- it helps you to be able  
19 to see the numbers and the different lines. That's all.

20 Q. And in your third column -- sorry in the second  
21 column it has time and what is that with respect to?

22 A. That's the time that the actual call was recorded.

23 Q. And is that the time for the call in Line 1?

24 A. Yes.

25 Q. With respect to the third column where it says

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1 phone number, what information is contained there?

2 A. That's going to give you the phone numbers for the  
3 incoming and outgoing calls.

4 MR. KERNER: Your Honor, if we could save  
5 some time I'm happy to stipulate that call destination  
6 means call distinction and minutes used means minutes  
7 used. I don't know that it's necessary to go through  
8 each and every column about what's plainly stated on  
9 the screen, your Honor.

10 THE COURT: Thank you, Mr. Zerner.

11 Mr. Perri, can you continue.

12 MR. PERRI: Thank you, your Honor.

13 Q. Now, with respect to call destination, what  
14 information would be contained in the column for call  
15 destination?

16 A. Just letting you know whether it's incoming call  
17 or outgoing, where that call -- where that number is  
18 destined to be, their calling area.

19 Q. And when you see the term incoming in this column  
20 under call destination what does that signify?

21 A. That the call is coming in to the number of the  
22 6877.

23 Q. And when you see incoming -- when you do not have  
24 incoming but rather terms such as Garden City, New York,  
25 what does that mean?

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1 A. That's 6877 calling that number, so it's an  
2 outgoing call.

3 Q. So with respect to Line 18 on this page --

4 A. Um-hum.

5 Q. -- what happened on Line 18 of this page?

6 A. It was an incoming call from the 4438 number.

7 Q. And at what time did that call occur?

8 A. 6:47 a.m.

9 Q. P.m.

10 Mr. Walker?

11 MR. PERRI: Your Honor, the witness may  
12 retake their seat, if you don't mind. Thank you.

13 THE COURT: You can have your seat back.

14 (Witness resumes the stand.)

15 MR. PERRI: Your Honor, I ask that the  
16 witness be shown 14C and D.

17 (Shown to witness.)

18 A. Okay.

19 Q. Mr. Walker, do you recognize 14C and D?

20 A. Yes.

21 Q. And what do you recognize it to be?

22 A. The actual call and text message transactions.

23 Q. And how are 14C and D different from 14B?

24 A. It actually has the text message transaction  
25 included.

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1 Q. And what number -- what wireless number are these  
2 records connected to?

3 A. 516-537-6877.

4 MR. PERRI: Your Honor, I would ask that the  
5 witness be also shown 17 -- 16 and 17, your Honor.

6 (Shown to witness.)

7 Q. Now, Mr. Walker, do you recognize People's 16 and  
8 17?

9 A. Yes.

10 Q. And what do you recognize it to be?

11 A. The same thing. It's the call and text message  
12 transactions.

13 Q. And is there anything different about People's 16  
14 and 17 in comparison to People's 14C and D?

15 A. The highlighted transactions.

16 Q. And what is highlighted on that page?

17 A. Several transactions. It's looking like it's  
18 between the target phone number which is the 6877 number and  
19 516-514-4438.

20 Q. And other than those highlights are there any  
21 differences between those records and People's 14C and D?

22 A. No.

23 MR. PERRI: Your Honor, I ask that People's  
24 16 and 17 be accepted into evidence as demonstrative  
25 evidence with respect to 14C and D, your Honor, subject

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1 to connection through Millinia Johnson.

2 THE COURT: All right, please allow

3 Mr. Zerner the opportunity to see the records.

4 (Shown to counsel.)

5 MR. PERRI: Your Honor, prior to that it  
6 would be with the same basis as the People's previous  
7 application for demonstrative evidence.

8 The only alteration in the copies were made  
9 by the District Attorney's Office and solely to  
10 highlight the same cell phone number as in the other  
11 copy. No other alterations were made.

12 VOIR DIRE EXAMINATION

13 BY MR. KERNER:

14 Q. Mr. Walker, did you look at every single page and  
15 every single bit of information of these 520 pages?

16 A. When I thumbed through it.

17 Q. Did you look at every single page of all 520  
18 pages, sir?

19 A. No. If you're asking me if I took actual time to  
20 look at every single page in there, no. We thumb through it  
21 to look at it because that's what we do.

22 MR. KERNER: Same objection.

23 THE COURT: Very well, objection is  
24 overruled. So noted for the record.

25 Received in evidence, People's 16 and 17.

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1 (People's Exhibits 16 and 17 received in  
2 evidence.)

3 MR. PERRI: And, your Honor, the same  
4 application for the witness to be able to leave the  
5 stand so I can use the presenter.

6 THE COURT: You can step down, Mr. Walker.

7 MR. PERRI: Thank you, your Honor.

8 (Witness steps down.)

9 (People's Exhibit 17 displayed at this time.)

10 Q. Now, Mr. Walker --

11 THE COURT: What exhibit are you referring  
12 to?

13 MR. PERRI: Sorry, your Honor.

14 This is People's 17, your Honor.

15 MR. KERNER: Can we know what page we're  
16 talking about?

17 MR. PERRI: Page 331 of 520.

18 Q. Mr. Walker, can you please explain at the top of  
19 Column 1 or the first column on this page the word calling  
20 underscore NBR appears.

21 What does that stand for?

22 A. Calling number and that's the number that's  
23 actually placing the call.

24 Q. With respect to the second column, called  
25 underscore NBR, what does that signify?



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1           A.    Called number and that's the number that is being  
2           called.

3           Q.    And with respect to the third column which says  
4           dialed underscore digits, can you explain what that means?

5           A.    That is the actual numbers being pressed on the  
6           keypad of the actual device.

7           Q.    With respect to the third (sic) column, M  
8           underscore R underscore, what does that stand for?

9           A.    That gives you the type of call, whether it's the  
10          inbound or outbound or routed or undetermined. Let's you  
11          know the type of call that was on that transaction.

12          Q.    And can you please explain what a routed call  
13          means, the term?

14          A.    Routed call is one of two things. It's meaning  
15          that the call was actually routed to the voicemail and it  
16          will give you a code to let you know that it was routed to  
17          voicemail or it can be that the call was just being routed  
18          through the network in order to reach the device.

19          Q.    Next column, moving the same exhibit, same page  
20          over, you see the column entitled start date.

21                What information is contained in that column?

22          A.    Start date gives you the date and time in military  
23          time of the actual transaction.

24          Q.    Could you please explain to the jury just briefly  
25          what military time means?

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1           A.    24-hour, so say like, for example, looking at the  
2 second line right there that shows 1708 you would convert  
3 that to standard time which would be 5:08.

4           THE COURT:   A.m. or p.m., sir.

5           THE WITNESS:   P.m., sorry.

6           Q.    With respect to the column that says end  
7 underscore date, what does that signify?

8           A.    Same thing, just giving you the date and the time  
9 that that transaction ended on the network.

10          Q.    And with respect to duration?

11          A.    Just gives you the length of the call in seconds.

12          Q.    And the last column, NEID?

13          A.    Network element identifier, just to let you know  
14 the area, the towers, that are being used.

15          Q.    Just to go back to the first three columns, now,  
16 when in the dialed digits column, please explain what it  
17 means when that area is blank?

18          A.    That's a text message.

19          Q.    And when there are numbers that appear on that  
20 column what does that signify?

21          A.    An actual call.

22               MR. PERRI:   I ask if the witness could return  
23 to the stand, your Honor.

24               THE COURT:   Go ahead.   Mr. Walker.

25               (Witness resumes the stand.)

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1 MR. PERRI: Nothing further, your Honor.

2 THE COURT: Mr. Zerner?

3 CROSS-EXAMINATION

4 BY MR. KERNER:

5 Q. Mr. Walker, how long have you worked for Sprint?

6 A. Six years.

7 Q. And have you always worked for Sprint in this  
8 capacity?

9 A. No.

10 Q. How long have you been traveling around the  
11 country authenticating documents?

12 A. Since of last year, May of 2015.

13 Q. Was that a welcomed change to your duties?

14 A. Yes.

15 Q. It was a promotion?

16 A. Yes.

17 Q. Now you get to travel, right?

18 A. Yes.

19 Q. You've only been doing this for about nine months,  
20 but in those nine months approximately how many trips have  
21 you taken?

22 A. Over 50.

23 Q. So fair to say you're traveling every week now?

24 A. Yes.

25 Q. What kind of training did you receive when you got

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1 this promotion?

2 A. Well, I was doing it beforehand where -- producing  
3 the documents so we had classroom training as well as  
4 on-the-job training.

5 Q. How long was the classroom training?

6 A. I believe it was six weeks.

7 Q. And was this on Sprint's campus?

8 A. Yes.

9 Q. And who gives that training?

10 A. Our training department.

11 Q. Was it one particular teacher or professor or a  
12 whole team of them?

13 How did that work?

14 A. Well, in my class it was just two of them.

15 THE COURT: Two instructors?

16 THE WITNESS: Two instructors, yes.

17 Q. And how many people have your current job title at  
18 the Sprint corporation?

19 A. Four.

20 Q. Do you cover a certain portion of the United  
21 States?

22 A. No, we just go wherever we're needed.

23 Q. Are the other three people also just crisscrossing  
24 the country coming to court?

25 A. Yes.

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1 Q. Okay. What's the next promotion above this job?

2 MR. PERRI: Objection.

3 THE COURT: Overruled.

4 Q. Please answer the question.

5 A. Whatever I want it to be, depending on just where  
6 I want to go.

7 So if I want to be a supervisor, if I want to look  
8 at manager, if I want to look at a completely different  
9 department, it's my option.

10 Q. You're anticipating spending your whole career  
11 with the corporation?

12 A. With Sprint?

13 Yes, as long as I can.

14 Q. Sounds like you enjoy your job?

15 A. Yes, I do.

16 Q. And you were glad to take the trip to come here?

17 A. Absolutely.

18 Q. And the company is fine with that also, it doesn't  
19 cost them anything, right?

20 A. I mean, I don't deal with that part of it. I just  
21 do what I'm supposed to do. I do my job.

22 Q. Okay. Did somebody from the DA's Office pick you  
23 up at the airport?

24 A. No.

25 Q. Took a cab?

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1 A. Yes.

2 Q. Submitted a receipt to the DA's Office?

3 A. I didn't handle that.

4 Q. Okay. When was the first time you spoke with  
5 ADA Perri?

6 A. I believe it was yesterday.

7 Q. And prior to yesterday, to the best of your  
8 knowledge, had he spoken with somebody else in your  
9 department?

10 A. I would say yes.

11 Q. And then yesterday you had a conversation with  
12 Mr. Perri.

13 Were you in Overland Park, Kansas yesterday?

14 A. Yes.

15 Q. At headquarters?

16 A. Yes.

17 Q. Now, do you remember what time of day it was?

18 A. Afternoon.

19 Q. Okay, so you're in Kansas.

20 The first time you hear anything about this case  
21 was less than 24 hours ago and is it fair to say that he  
22 gave you the phone number that he was talking about?

23 A. No, I can look it up, but we went into more of  
24 just making sure that we can get me here today so we can get  
25 everything just taken care of.

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1 Q. And then when you got here today he told you what  
2 phone number was important to him, right?

3 A. Correct.

4 Q. And did he tell you anything about who was the  
5 recipient of any of these phone calls and texts that he's  
6 discussed in --

7 MR. PERRI: Objection.

8 THE COURT: Overruled.

9 A. No, because, I mean, whoever that is, it really  
10 doesn't pertain to me.

11 Q. So you don't know whether that 514-4438 number is  
12 also a Sprint number?

13 A. Yeah, I know it's a Sprint number because that's  
14 why I'm here.

15 Q. So both numbers were Sprint numbers, right?

16 Both the 537-6877 as well as the 514-4438, right?

17 A. I don't know about the 4438, I just know the 6877.

18 Q. All right, and you didn't look up to see whether  
19 4438 was also a Sprint number?

20 A. No.

21 Q. And do you know who pays the bill on that 4438  
22 number?

23 A. No.

24 Q. And would you know if both of those numbers were  
25 connected to each other?

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1 A. No.

2 Q. Do you have, and you'll excuse my ignorance, I'm  
3 not a Sprint customer and I apologize, do you have like a  
4 friends and family plan with Sprint?

5 A. We do -- we used to. That's the actual title of  
6 it.

7 Q. Okay, so you don't have that now?

8 A. Right now we have a what's called everything data  
9 plans.

10 Q. And back in 2013, 2014, did you have a friends and  
11 family plan?

12 A. I don't remember exactly.

13 Q. Would those --

14 A. I know we had some that was grandfathered in, so  
15 if we go by them being grandfathered in we would say yes, we  
16 had them.

17 Q. Would those records that you were reviewing before  
18 indicate whether the phones were in the same plan?

19 A. Only if we would have looked up both numbers.

20 Q. And you didn't?

21 A. No.

22 Q. And you didn't because Mr. Perri didn't direct you  
23 to do it?

24 A. Well, the subpoena didn't.

25 Q. Right, and the subpoena was prepared by somebody



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1 from Mr. Perri's office?

2 A. From the District Attorney's Office.

3 Q. And that subpoena, it's not by a judge it's by the  
4 DA?

5 MR. PERRI: Objection.

6 A. I --

7 THE COURT: Sustained.

8 Q. Aside from looking up exactly what the DA told you  
9 to look up did you or anybody at Sprint Corporation do a  
10 more thorough search of either of these phones?

11 MR. PERRI: Objection.

12 THE COURT: No, overruled.

13 A. When you say more of a thorough search, what are  
14 you meaning?

15 Q. Well, you already told you us you didn't look up  
16 anything involving the 4438 number as far as who the billing  
17 customer was, right?

18 A. Right.

19 Q. Because nobody asked you to?

20 A. Correct.

21 Q. And you didn't look up to see the customer name on  
22 that phone, right?

23 A. Correct.

24 Q. You didn't look up to see when it was established,  
25 right?

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1 A. Correct.

2 Q. And you didn't look up to see if it was ever shut  
3 off, right?

4 A. Correct.

5 Q. You could get that information, right?

6 A. If someone gave us a legal demand we could.

7 Q. Right, but the DA didn't ask you for that in this  
8 case, right?

9 A. No.

10 Q. Did you ever hear the name Rafael Mickens before?

11 A. No.

12 MR. ZERNER: I have nothing further.

13 THE COURT: Any redirect, Mr. Perri?

14 MR. PERRI: Nothing further.

15 THE COURT: Mr. Walker, thank you for coming  
16 in from Kansas.

17 Probably more cold here than it is in Kansas.

18 THE WITNESS: No, it's the same.

19 THE COURT: Have a safe trip back.

20 THE WITNESS: Thank you.

21 (Witness excused.)

22 THE COURT: Can I see counsel for a second,  
23 please?

24 (Discussion held at the bench, off the  
25 record.)

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1 THE COURT: Mr. Perri?

2 MR. PERRI: Your Honor, the People have an  
3 application with respect to two documents that we ask  
4 to be -- that have already been marked 8 and 9 for  
5 identification. They are two orders of protection.  
6 They are certified documents, sealed and signed by the  
7 clerks of the Family Court of the State of New York for  
8 Nassau County.

9 Pursuant to Civil Practice Law Rule 4540, we  
10 ask that they be admitted into evidence as  
11 authenticated official records of the State of New  
12 York, your Honor.

13 THE COURT: Mr. Zerner?

14 MR. KERNER: Your Honor, I object. He's  
15 trying to bootstrap another court's ruling into this  
16 court. There's no reason for it and I object to it.

17 THE COURT: Thank you, sir.

18 The objection is overruled and the two  
19 documents received in evidence as People's 8 and 9.

20 (People's Exhibits 8 and 9 received in  
21 evidence.)

22 THE COURT: Okay, ladies and gentlemen,  
23 that's going to conclude our work for today and, as you  
24 know, tomorrow is Friday and then we have the weekend  
25 and of course Monday comes after the weekend.

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1 Friday and Monday are holidays, either local  
2 or national or both, so there's no work for you in  
3 court on Friday or Monday.

4 Then on Tuesday, because of a conflict, we  
5 won't have any court testimony either.

6 So the next time we'll see you is Wednesday  
7 morning at 9:30 to continue testimony.

8 Now, I told you the schedule was that we  
9 should be completed before the end of February and I  
10 think we're still on track for that schedule, okay?

11 Remember my admonitions.

12 Don't do anything with the case on your own,  
13 okay?

14 Forget about it, enjoy your long weekend.  
15 Stay warm, stay safe and we'll see you Wednesday  
16 morning, okay?

17 (Jury exits.)

18 THE COURT: Mr. Perri, anything for the  
19 record?

20 MR. PERRI: No, your Honor.

21 THE COURT: Mr. Zerner, anything for the  
22 record?

23 MR. KERNER: Just have a nice weekend.

24 THE COURT: Very good.

25 You, too, sir.

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1                   My admonitions to you both are the same as to  
2                   the jurors, stay safe, okay, stay warm and we'll see  
3                   you on Wednesday morning.

4                   MR. PERRI: You, your Honor.

5                   THE CLERK: Having no further business, court  
6                   stands adjourned.

7                   (Proceedings adjourned to Wednesday,  
8                   February 17, 2016 at 9:30 a.m.)

9                   (Kathi Fedden relieves Wendy Silas as  
10                  official court reporter.)

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